

**MINUTES  
VILLAGE of ARDSLEY  
ZONING BOARD of APPEALS  
REGULAR MEETING  
WEDNESDAY, APRIL 27, 2016**

**PRESENT:** Patricia Hoffman, Chair  
Jacob Amir  
Mort David  
Ellen Slipp  
Michael Wiskind

**1) Call to Order**

The Chair called the regular meeting to order at 8:05 pm.

**2) Announcements**

The Chair announced that on Tuesday, May 15<sup>th</sup> at 2:00 in the afternoon, at the Ardsley Village Hall, a plaque will be dedicated in memory of Beverly Levine, who was a sitting Trustee when she passed away in 2012.

The Chair announced that the next meeting of the Zoning Board of Appeals will be on Wednesday, May 25, 2016 at 8:00 pm.

**3) Approval of Minutes**

Mr. Wiskind moved, and Mr. Amir seconded, that the Board approve the minutes of the Village of Ardsley's Zoning Board of Appeals meeting of November 25, 2015 as amended. **Vote:** 4 in favor, none opposed, one abstention.<sup>1</sup>

Ms. Slipp moved, and Mr. Wiskind seconded, that the Board approve the minutes of the Village of Ardsley's Zoning Board of Appeals meeting of January 27, 2016. **Vote:** 4 in favor, none opposed, one abstention.<sup>2</sup>

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<sup>1</sup> Ms. Slipp abstained as she was not present at the November meeting.

<sup>2</sup> Mr. David abstained as he was not present at the January meeting.

4) **Closure of Public Hearing**  
**Withdrawal of Variance Application (3/9/2016)**

**Cross Town Motor Inn d/b/a Apple Motor Inn a/k/a Apple Motel,  
775 Saw Mill River Road, Ardsley, New York.**

**Section 6.50, Block 19, Lot 2, in the B-1 General Business District.**

**For a proposed second story motel addition, extending an existing non-conforming use. (§ 200-100C)**

The Chair announced that the applicant has withdrawn the application for a variance, that this matter has therefore been removed from the Zoning Board's calendar and that no further action is required.

5) **Public Hearing**

**Craig and Keren Marshal**

**4 Captain Honeywell's Road, Ardsley, New York.**

**Section 6.50, Block 27, Lot 2, in an R-3 One-Family Residential District.**

**For a proposed second story addition, with East side yard setback of less than fifteen feet. (Village of Ardsley Code § 200-26B).**

**Open Public Hearing**

The Chair read the Legal Notice.

**Attendees:** Craig and Keren Marshal, applicants  
Mr. Bill Witt, of William P. Witt Architects

Mr. David noted two errors on the first page of the documentation: one, that the documentation states that the current home was built in 1972, whereas it was built in the early 1950s when zoning code was different; and two, in the architect's rendition also indicating that the house was built in 1972, as stated in item #5 at the bottom of the page.

The Chair asked applicant about the green cards and the affidavit. Mr. Witt reported that 27 green cards were mailed, and he provided the 23 that came back. Mr. Witt also reported that the Affidavit had been submitted to the Zoning Board secretary on Monday, and the Chair noted that it was in the file.

The Chair noted that the application is missing the two-page Zoning Board worksheet. Mr. Witt provided the worksheet, stating that he had not previously submitted it because he had not understood that it was part of the application. The Chair asked if the information on the worksheet was the same as the information on each page of Mr. Witt's drawings, and Mr.

Witt confirmed that it is on the title page which has the site plan, and the zoning plan. The Chair advised that she would hold on to the worksheet for the moment, but advised Mr. Witt that it needs to be submitted.

Mr. Witt showed the site plan with the existing property and the existing footprint. Mr. Witt thanked Mr. David for the correction, noted that the property card had two different dates on it, and confirmed that the house was built in 1951. Mr. Witt pointed out that the side yard setback standards must have been different then, as there is a 10.2 foot setback on the right hand side, and a 9.4 foot setback on the left hand side.

Mr. Witt described the proposed second story addition. He stated that the idea of this addition is to move all the family bedrooms upstairs, and to reorganize the first floor to make more living space for the growing family. Mr. Witt stated that other options for the addition had been explored, including going back and going up partially. Mr. Witt added that going up partially would not allow all the family bedrooms to be located upstairs, nor provide the square footage needed. Mr. Witt further stated that going back would not allow all three bedrooms to be placed in the back of the house and would not free up living space, and that a zoning variance still would be required to push out the back, as approximately five feet of the width of the current house is outside of the buildable footprint.

Mr. David stated that there seemed to be sufficient room to push out the back of the house, and asked where a zoning variance would be needed in doing so. Mr. Witt responded that because of the present location of the rooms, pushing back would not provide room for a single ten feet wide bedroom, let alone all three bedrooms lined up. Mr. Witt pointed out that because the current house is nonconforming, building out the back would mean not building out the last five feet of the breadth of the house without a variance, and added that pushing out the back and locating the bedrooms in the back would block the kitchen and dining room. Mr. Witt also noted that the benefit of not pushing out the back was not increasing the impervious surface, pointing out that there is no additional run-off from this proposed addition as there is no additional roof area.

Mr. Witt informed the Board that the house next door to applicant's home had a second story added in 1972, and that that house sits approximately twelve feet from its side property line. Mr. Witt produced photographs of neighboring homes and a map showing how applicants' house sits relative to its neighbors with approximations of the setbacks. Mr. Witt also produced a photograph with a street view of applicants' house and the neighboring house with the 1970s second floor addition, showing the 45 feet long two story wall to the right of applicants' property line, and Mr. Witt added that the second story addition sought here is approximately 32 feet long. Mr. Witt also showed the Board a composite elevation to demonstrate how the massing would look in relation to the neighboring properties, and pointed out that the proposed addition would be in scale with modifications made to neighboring homes that have been expanded. Mr. Witt stated that applicants seek a ten-foot side yard on one side of the house, while there is a twelve-foot side yard on the other side.

Mr. David noted that except for house number two, all the other houses in the immediate area have been expanded. Mr. Witt agreed, and produced photographs of neighboring properties corresponding to the map submitted with the property numbers listed on them. Mr. Witt also submitted a Google map showing how all the adjacent houses sit on their properties with approximations of the setbacks. Mr. Witt pointed out that they are older homes, which he suspects were built to the standard of a ten-foot setback.

Mr. Witt explained that the interior of the house dictated the addition, including the location of the front door, the location of the existing kitchen, dining room and living room which are not going to be renovated, and the existing garage which is closer on the left hand side than the proposed addition on the right hand side. Mr. Witt pointed out that the garage is set back between 9 and 10 feet and is closer to the property line, and added that the garage setback made it more sensible to expand on the other side of the house and to not build on the garage.

Mr. Amir asked what the existing and proposed square footages are. Mr. Witt responded that the house is currently 1484 square feet including the first floor and the garage, and the proposed square footage is 2750 square feet, which is double the square footage of the first floor without the garage. Mr. Wiskind noted that the proposed square footage is still well under FAR standard.

The Chair asked if the garage was part of the original house or an addition. Mr. Witt responded that although it is a different construction technique, being made of concrete block and having a flat roof, there is no indication that it was not original. Mr. Marshal stated that he believes the garage is listed on the property card. Mr. Witt added that it may have been added in 1972, and that that may account for the mistaken date of building. Later in the proceeding, Mr. Wiskind noted that the 1956 property card shows a garage.

Ms. Slipp asked Mr. Witt to describe how the proposed expanded house will appear to the neighbors. Mr. Witt showed a rendering of the current house and of the house after the proposed addition. Mr. Witt explained the proposal, and pointed out that instead of going straight up there is articulation in the roof lines, that there will be a covered porch, that there is an existing bay window, that the roof over the garage will be replaced as it presently leaks and that the garage roof will be raised to give it more scale and character, that there will be new siding on the entire house, and that the existing stone will be cut down to a level because all of the windows will be relocated, but that the existing stone will be kept and will be matched to stone for the chimney which will have to be extended. Ms. Slipp asked what kind of siding would be used. Mr. Witt replied that the proposal is for vinyl shake siding with vinyl corner boards, 40-year architectural roof shingle, and to maintain some of the existing natural stone.

The Chair asked what the current height of the house is from ground to roof ridge. Mr. Witt replied that he did not know the height to the roof ridge, but that he knew that 24.1 feet was its average grade to mean roof, so he estimated that with an extra 4.5 feet, it is probably just under 30 feet to the ridge. Mr. Witt noted that he believed the standard to be 30 feet to the mean roof. Mr. Witt added that the proposal does not raise the existing 8.3 foot first floor

plate, and that the proposed second story will be a standard 8-foot plate, noting that new construction is usually 9 or 9.5 feet on first floor and 9 feet on the second. Mr. Wiskind added that the building height on the plan is 24 feet.

Mr. David asked if there was attic access. Mr. Witt replied that the attic will have a pull down stair, and added that the attic will be used for storage and servicing the air conditioning. Mr. Witt added that the master bedroom will have a tray ceiling with duct work above it.

The Chair asked how many bedrooms would be moved to the second floor and how many bathrooms there would be in total. Mr. Witt replied that the second floor would have three bedrooms – a new master bedroom with its own bath and two children’s bedrooms with a shared Jack and Jill bathroom – and that there will be a small laundry room. Mr. Amir asked how many bedrooms and bathrooms are currently in the house. Mr. Witt replied that there are currently three bedrooms and one bathroom on the first floor. Mr. Witt added that none of the proposed rooms are excessive in size, that he believes that the proposed children’s bedrooms are approximately twelve feet by twelve feet. Mr. David asked to what use will the existing bedrooms downstairs be converted. Mr. Witt replied that the very small bedroom in the front of the house will be used to create a better foyer and add the new stairs, the current master bedroom will be used as a home office, and the back two bedrooms will be opened up to create a family room.

Mr. Witt said that building a second story allowed them not to block light coming in from the back of the house, and that it made more sense than to go outside the existing footprint.

The Chair noted that in one of the drawings it appears that the second floor steps out, and asked if the addition goes straight up over the existing house. Mr. Witt replied that it goes straight up everywhere except for a small section in the front of the house that has a 1.5-foot cantilever to introduce a roofline variation for architectural detail. The Chair asked what the cantilever does to the front setback. Mr. Witt replied that it is 29.2 feet from the front property line to the cantilevered section of the second floor extension and 26 feet to the new front porch, and noted that 20 feet is the required set back. Mr. Witt noted that house number 2 is closer to the street, and that house number 8 is just about in line with where the new overhang will be.

The Chair asked if there was anyone present who wished to speak in favor of or opposed to the application. There were none.

Mr. David asked about the current drainage system and if adding a drywell was contemplated. Mr. Witt replied that the gutters and leaders feed currently feed into an underground drainage system, and that applicants have not had any drainage problems in the eight years they have lived in the house. Mr. Witt added that if Mr. Tomasso decides that additional drainage is warranted, applicants would not be opposed to it, but stated his opinion

that if the system is working and that there is no increased impervious surface, digging a hole and adding to the expense would not be necessary. The Chair noted that this issue would be something for applicants to discuss with the Planning Board.

Ms. Slipp moved, and Mr. Wiskind seconded, to close the public portion of the hearing. **Vote:** 5 in favor, none opposed, none abstaining.

### **Close Public Hearing**

Mr. David then offered the following Resolution:

WHEREAS, Craig and Keren Marshal, 4 Captain Honeywell's Road, Ardsley, New York, has applied to this Board for a variance from the requirements of Section 200-26, Subdivision B, of the Zoning Ordinance of the Village of Ardsley for side yard setback of the property; 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 4 Captain Honeywell's Road, Ardsley, New York, and designated as Section 6.50, Block 27, Lot 2 in an R-3 single-family residence district on the tax maps of the Village of Ardsley; and

WHEREAS, a public hearing on this application was held by the Ardsley Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York on April 27, 2015 after due notice by publication; and

WHEREAS, at the hearing, no one appeared in support of or in opposition to the application; and

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

- (1) applicants propose to construct a second-story addition to an existing one story residence, and therefore request a variance from strict application of 200-26(B) of the Code of the Village of Ardsley entitled "Yard Requirements," requiring the width of side yards to be 15 feet; and
- (2) the existing one-story residence was built prior to the establishment of 15-foot side yard setback requirements, and the wall on the East side of the existing one-story residence is 10.2 feet from the property line; and
- (3) strict application of the zoning code is not possible as the existing residence currently protrudes 4.8 feet into the required 15-foot side yard setback; and

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;
- (2) upon testimony of the architect for applicants, the benefit sought by the applicant cannot be feasibly achieved other than by a variance;
- (3) the requested side setback area variance is not substantial as it will neither change the footprint of the house nor increase the existing non-conformity;
- (4) the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) the circumstance requiring the area variance was not self-created;

NOW THEREFORE, be it RESOLVED that the application of Craig and Keren Marshal is granted.

Mr. David moved, and Mr. Amir seconded, that the above Resolution be adopted. **Vote:** 5 in favor, none opposed, none abstaining.

6) **Public Hearing**

**Mitchell and Christine Zeren**

**34 Euclid Avenue, Ardsley, New York.**

**Section 6.80, Block 68, Lot 11, in an R-3 One-Family Residential District.**

**For a proposed (a) rear deck with South side yard setback of less than fifteen feet (Code § 200-26B); and (b) second story addition with (i) South side yard setback of less than fifteen feet (Code § 200-26B), (ii) building height exceeding thirty feet (Code § 200-23A), and (iii) vertical distance exceeding thirty-eight feet between the highest point of the roof and the average grade (Code § 200-23A).**

**Open Public Hearing**

The Chair read the Legal Notice.

**Attendees:** Mitchell Koch, Architect  
Jon Klein, personal representative of applicant

Mr. Koch reported that 24 green cards were mailed and 16 were returned. The Chair stated that the Affidavit was in the materials the Board received.

Jon Klein stated that Dr. Zeren could not be at the hearing because he is meeting with an attorney about a civil case in which he is expected to give testimony the next day, and that Dr. Zeren had asked Mr. Klein to attend in his stead. Mr. Klein said that he is the real estate agent who represented the Zerens in the purchase of the subject property, and that he has been a friend of Mitchell Zeren since childhood.

Mr. Koch described the existing house as a one-and-a half story house with two little bedrooms shoe-horned into the attic. Mr. Koch stated that neither of these bedrooms is conforming, either in ceiling height or egress windows. Mr. Koch explained that the proposal is to raise the roof sufficiently to create a second floor with full bedrooms. Mr. Koch pointed to a parallelogram shape on the drawing of the proposed plan, and identified it as the part of the second floor addition that is not conforming to the side yard. Mr. Koch also identified the portion of the deck that would be not conforming to the side yard, and on the second floor plan, identified the portion, including the roof overhang, that would be the nonconforming portion.

Mr. Koch stated that the goal is to create a nice family home. Mr. Koch reported that it is currently a two-family home with an apartment in the basement, and the proposal is to convert it to a one-family home. Mr. Koch stated that the second floor is insufficient for applicants' family because there are only two bedrooms there, and noted that as currently configured as an apartment, there is a bedroom on the main level which they intend to make a family room off the kitchen. Mr. Koch pointed out that the proposed floor plan is within the existing footprint.

Mr. Koch described the proposal, stating that the entry would be on the side of the existing front porch, that after coming into a foyer area, there would be a service hall with a pantry and powder room with entry to either the kitchen or formal areas. Mr. Koch added that the idea is to create a lovely home, scaled and as nice as two very handsome neighbors to the South and to the North, which will make it a better neighbor. Mr. Koch noted the intention to keep the existing Dutch "hip," which the neighbors have too, as it is a traditional and charming look for a suburban house. Mr. Koch added that the existing house has brick all around the first floor, which would be kept as wainscoting, and then to go to a clapboard above the brick, because it is difficult to get a good match on brick, and a poor match is particularly noticeable in the mortar. Mr. Koch pointed out that the proposed addition maintains the same roof pitch of 9 in 12, which pushes the proposal slightly above the maximum roof height. Mr. Koch noted that the proposed excess height is a function of the very steep grade of the property, as can be seen by the walk-out basement in the elevation

sketch. Mr. Koch explained that the average grade is in fact significantly lower than what is seen from the street because the property all goes downhill and probably drops at least 40 feet to the back property line, which he thinks is true of all the properties on the street. Mr. Koch concluded that this proposal will make this an elegant home and a good fit for the neighborhood.

Mr. David asked for clarification of what was meant by “extended family,” as cited in applicants’ letter stating the need for room for the extended family. Mr. Klein stated that Dr. and Mrs. Zeren have two sons, one who is graduating college and has a girlfriend that might soon be a fiancé, and a younger son who will be finishing college next year. Mr. Klein explained that the proposal includes taking out the apartment in the basement of the existing house, reverting the house to single family zoning conforming with the neighborhood, and that this will yield space for family members to visit and appreciate the backyard. Mr. Klein added that now that Dr. Zeren’s children are finished with college, Dr. Zeren wants to move from Yorktown Heights to live and retire here because he will save 30 miles of commuting to his practice with its two locations in the Bronx.

Mr. David then asked if what was meant by “extended family” was Dr. Zeren, his wife, two sons and a girlfriend. Mr. Klein stated that the sons do currently live with Dr. and Mrs. Zeren – the one still in college will stay with them during college breaks, and the son that graduated is working in the city and staying with them – but that the Zerens are planning for the future. Mr. David expressed concern that this might mean five cars, which he thinks is nearly impossible in that narrow driveway. Mr. Klein reported that there is a legal building permit for a parking platform on the street, that was given in a previous time, so there is already legal parking for six cars on this property. Mr. David asked if that means that the cars will be parking on the street. Mr. Koch reported that there is a little retained area on the North side of the house that is a legal parking area. Mr. Amir asked if that parking area is going to be disturbed, and Mr. Koch said that it will not be disturbed or changed. The Chair and Ms. Slipp asked where that area is on the photographs. Mr. Koch stated that it was to the right of the house in the photos, and Mr. Wiskind pointed out the photograph in which it was visible. Mr. David reported that today he parked on the street in front of #36, and noted that there was not much room on the street for parking. Mr. Klein stated that it is off-street parking. The Chair stated that you could not fit six cars in that area, and Mr. Klein replied that four cars could fit there, but that even if the space can hold three cars, with the driveway and a garage space, there is room for five cars off the street. Mr. Koch stated that they want to create a single family home and are not expecting any greater parking load than any normal nuclear family would have. Mr. David said that “nuclear” was not the same as “extended,” which had been stated on the application. Mr. Klein explained that he used “extended” to suggest visiting, not living there. Mr. David said that children are part of the nuclear family. Mr. Klein stated that there will not be young children living there on a permanent basis, but that the Zerens anticipate being grandparents down the road and wanting to have a place for the family to come visit.

Mr. David also asked the architect if the retaining wall that is between the house and the potting shed in the rear will be able to bear the additional weight without collapsing. Mr. Koch stated that the point is well-taken and that they will take that up with the Building Inspector. Mr. Koch acknowledged that the property is steeply sloped with a lot of retaining wall, but he pointed out that the addition is not an entire floor but only a band of wall on the second floor. Mr. Koch stated his surmise that whatever has prevailed until now will be sufficient, but added that they will make sure of that.

Mr. David stated that he understands that the house was purchased about one month ago. Mr. Klein reported that they closed on February 10, 2016. Mr. David asked if there were plans to add the second floor at the time of their purchase. Mr. Klein replied that they planned to improve the house and make it a better house to move into once they sell their house. Mr. David wondered if it was bought with the knowledge that a zoning variance would be needed, and thus was the need for a variance self-created. Mr. Klein stated that the house doesn't conform because it was built before the current side yard setback requirement, and he guesses that this is the issue that brings us here.

The Chair reminded Mr. Klein that application is for three issues: height, side yard, and a deck which does not currently exist. The Chair pointed out that the deck if added will encroach into the non-conforming side yard setback, as will a portion of the proposed second story, and the roof is too high. The Chair stated that the point is well-taken that two months ago the applicants bought a house that is too small for their needs, and before they sell their current home, they are before the Zoning Board of Appeals asking for a variance for their new home. Mr. Amir added that applicants could have come before the Zoning Board as a contract vendee prior to closing.

Mr. Koch stated that the side yard setback issue could be avoided by doing an addition on the second floor that didn't encroach upon the side yard setback, but felt that this it would be an abomination architecturally and would create structural issues of offsetting the wall. Mr. Koch stated his view that what is proposed is a minor encroachment on an existing non-conforming house, and that applicants are eager for the Zoning Board to agree in this point of view, but added that they would be open to any recommendations the Board has.

The Chair explained the need to create a record so that there are no questions afterward because the Board did not ask all the appropriate questions.

The Chair asked how many bedrooms are currently in the house. Mr. Koch replied that there are two apartments in the house, that the basement apartment has a bedroom, that there are two bedrooms in the attic and one bedroom on the main floor, for a total of four existing bedrooms, and that the proposal is to keep the same number of bedrooms except that they now would all be on the second floor.

Ms. Slipp asked if the basement apartment is legal and asked what would happen in the basement, and wondered if applicants might decide to keep it as a separate apartment. Mr. Koch replied that the basement apartment is legal, that kitchen will be taken out, as there is no intention of keeping it as a separate apartment. Mr. Koch added that this will be presented to the Building Department, which will do roughing and final inspections, and that this is an easy standard they can measure. Ms. Slipp asked if this could change after the Building Department leaves and applicants have the Certificate of Occupancy. Mr. Koch answered that any walkout basement could probably accommodate an apartment, but that he would not propose to cheat, and that they would not need to undo it and go back and do it. Mr. Wiskind pointed out that the house currently is a legal two-family house. The Chair confirmed that applicants can leave it as a two-family house and still do their addition. Mr. Koch reiterated that there is no reason to lie or cheat about that. Mr. Klein added that the house's non-conforming zoning as a two-family is grandfathered in, and that the Certificate of Occupancy will be for a one-family home.

The Chair asked how many bathrooms are in the house now. Mr. Klein stated that there are three bathrooms now, one in the basement, one on the main floor, and one on the attic floor. The Chair asked how many bathrooms there will be if the addition is approved. Mr. Koch stated that there will be three and a half bathrooms. The Chair asked what will happen with the bathroom in the basement. Mr. Koch replied that it will be left there. Mr. Wiskind stated that he thought that the basement was where the half bathroom would be. Mr. Koch showed on the sketch where the new powder room will be, and Mr. Klein stated that in the basement is a bathtub/shower combo.

The Chair asked about the proposed new deck, and asked why it was not moved and left in the conforming area so that a variance is not needed. Mr. Koch stated that architecturally they wanted to align it with the house, and to provide better access to the kitchen. Mr. Koch added that the interior drawings were just to establish a basic layout prior to understanding the zoning implications, and that the interior is subject to some change, dependent upon the outcome of the zoning variance. The Chair explained that she was not talking about the interior which is in the existing structure, but that it looks like there are glass sliding doors from eat-in kitchen out to a 30-foot deck, and why not a 24-foot deck that does not require a variance. Mr. Koch stated that he is not opposed to that if that is the judgment of the Zoning Board, and explained that the applicants had asked him to request the biggest deck that they could get. Mr. Klein added that applicants wanted the deck to meet the normal edge of the house. The Chair pointed out that one will not see it as it kicks out and you cannot see the deck from the front of the house, so asked why it has to align with the house.

The Chair explained that one of the functions of the Zoning Board of Appeals is to make sure that any variance that the Board grants is a necessary variance, and if the Board grants a variance, it is the minimum variance to obtain the objective. If no variance is needed, then the Board's obligation is to deny it. The Chair asked Mr. Koch to explain, since a variance is not needed to have a 24-foot deck instead of a 30-foot deck, why a 30-foot deck is necessary.

Mr. Koch replied that from an architectural point of view, we wanted to have this French door set within the deck. Mr. Koch added that they could reconfigure it, could make it two doors, but pointed out that if the deck has to move seven feet and if the door has to move, it becomes a single door opening on the edge of the deck instead of a group of doors nicely located on the deck. Mr. Koch acknowledged that if that is the judgement of the Zoning Board, the applicants would retract the application for the side setback for the deck.

The Chair asked for the distance from the door to the edge of the deck as now proposed. Mr. Koch replied that it is about five feet. Mr. Wiskind asked if the door was drawn as a single. Mr. Koch replied that it was drawn as a triple. Mr. Koch stated that they had tried to locate the door relative to the kitchen and the eating area, and to provide them with a generous kitchen. Mr. Wiskind pointed out that if it is five feet from the edge of the proposed deck to the door and the encroachment is six feet, the door does not have to move far.

Mr. David expressed the opinion that the deck is not visible from the front. The Chair stated that if approved the but neighbors would have a deck six feet closer to their property line than it is supposed to be. Ms. Slipp agreed that the Zoning Board should keep the applicants to the prescribed setback. The Chair stated that she does not see the need for the encroachment. Mr. Koch asked if it is within the Zoning Board's jurisdiction to deny just one of the issues, just the deck. The Chair stated that it is. Mr. David stated that applicants can just remove it. The Chair explained that applicant can withdraw that portion of the application, and then the Zoning Board does not have to deny it. Messrs. Koch and Klein agreed to withdraw that portion of the application.

Mr. Wiskind pointed out that the deck probably could go 30 feet if it were shifted toward the family room. Mr. Koch stated that the proposed location of the deck had to do with the doors. Mr. Wiskind added that there is also something to be said about the door open to the family room. Mr. Koch replied that they can work around the location of the doors.

The Chair asked if the garage is under the house. Mr. Koch replied that it is. The Chair asked if there is currently a bedroom over the garage that will become a family room. Mr. Koch stated that was so, but noted that this is on the right side of the house so doesn't impact the application. The Chair noted that this is the same issue the Board faced with the prior application, and stated that if applicants are seeking to go up directly on the existing non-conforming use, she does not have an issue with that.

The Chair raised the height issue. Mr. Koch stated that the height issue is a function in part of maintaining the same roof pitch, and added that they were close to the 38-foot maximum, but that Mr. Tomasso suggested that they ask for 40 feet in case there became a need to go over. Mr. Koch said that they can work to the 38-foot limit. Ms. Slipp stated that applicant should work to the 38-foot limit. Mr. Klein pointed out the problem that from the front of the house, the property is much lower than it needs to be because the property is so steep. Mr. Koch reported that this would necessitate changing the pitch of the roof a little, but pointed

out that the height requirement is not measured from the front but is an average, this challenge arises because of the steep slope of the property, particularly in the back. Mr. Koch stated that the proposal is a very small encroachment of two feet that has very little impact on the street, and that the house is smaller than either of the neighbors. Mr. Wiskind noted that the house to the North seems very high from the street. Mr. David asked if Mr. Koch had measurements of the other houses on the street. Mr. Koch replied that he did not but that visually, it seems higher. Mr. Koch pointed out that the neighbors on the other side of the street are well up the hill, so the height is not an issue for them, and added that for the immediate neighbors, the proposed house with the slightly raised second floor would look nicer with the two houses that are both nice substantial homes. Mr. Wiskind concurred that it would make those three houses together look nice, as the other two both have three exposed stories of windows as is proposed here. Mr. Klein added that the extra two feet may have been required to fit the air conditioning and air handler in the attic, which will not be an attic one can go into, but will be just be a crawl space.

The Chair asked what the interior height of the proposed attic. Mr. Koch said that he would have to scale it, that clear at the center is probably seven feet. Mr. David stated that this would mean that the sides would obviously be at the eaves. Mr. Koch acknowledged that the bedrooms will have a shaved ceiling detail and that the actual spring point of the eave is right at the top of these windows, so in two end bedrooms and in the master bedroom there will be an angled ceiling.

Ms. Slipp stated that in the sketch of the proposal she did not see the Dutch architecture she had seen in the before picture that Mr. Koch had said would be maintained. Mr. Koch pointed to the Dutch hip and explained that it is a gabled roof with “a little thing knocked off the edge,” and added that the neighbors’ houses have it. Ms. Slipp stated that she thinks it is charming as it is, but doesn’t see it in the drawing of the proposal. Mr. Koch pointed to a little triangle on the drawing that represents it. Ms. Slipp said that she may not have noticed it because the feature is not as pronounced with the increased house volume, so she thinks it is not as charming.

The Chair referred to the worksheet, noting that it says building height, maximum 30 feet, existing 24.8 feet, proposed 32.25 feet, and asked how we get to 40 feet. Mr. Koch replied that that is the average height, and explained that the Ardsley Zoning code has two different criteria: one is from the roof ridge to the average grade, which is the 34 feet proposed as opposed to the maximum height of 30 feet. Mr. Koch stated that the very back of the house is somewhat shy of 40 feet, but reiterated that they were encouraged to round it up so that if this were awarded, they would not have to come back and that it went over. The Chair asked why 40. Mr. Koch replied that 40 feet is from the extreme lowest point at the edge of the house, which Mr. Tomasso had informed them is one of the criteria. Mr. Wiskind said that he sees it as 38 feet between the highest point of the roof and the average grade. Mr. Koch replied that it is actually between the roof ridge and the lowest point. Mr. Koch added that the issue is that if the prescribed maximum height from the average grade is 30 feet, then

lowering the roof four feet or even three feet will change the character of the roof a lot, and implored the Zoning Board to consider the architectural merits of the elevation from the front and consider if it were dropped three feet.

Ms. Slipp reiterated that applicants bought this house knowing that it was not going to do what it needed to do for the family, and are now pushing the Board over the edge of the zoning requirements. Mr. Koch replied that he is asking for a variance from the zoning requirements. Ms. Slipp stated that applicant came into it with open eyes knowing that it was not going to be a sufficient improvement in your words or expansion in ours. Mr. Koch replied that we can make this addition conform to the zoning height requirement, but that he thinks it looks better for the street and the neighborhood in general if we are granted a variance for the small encroachment. Ms. Slipp suggested that it might be helpful to see what it looks like drawn as a conforming and as a non-conforming structure.

The Chair expressed interest in the vertical distance of the two houses on either side of subject property, to see if those houses are 30 feet high and that this house will be ten feet higher than they are. Mr. Koch replied that those houses are probably 40 feet high, and this house will not be as tall as either of the neighbors, and added that he does not know how they can go to the neighbors' houses and measure the height of the rooves. The Chair stated that she believes that that information is on the property card in the office.

Mr. Wiskind stated that in checking the law, he reads that 38 feet is the maximum height from the maximum height of the roof to the average grade. Mr. Koch replied that if that is so, this proposal is actually conforming, as it only asks for 34 feet. Mr. David stated that the Code states that the height shall not exceed 38 feet. Mr. Wiskind added that that height is from the average, not from the low point, from which applicants' 40 feet is. Mr. Koch reported that from the average grade, applicant is asking for a roof height of 34 feet, so it is an error to seek a variance. The Chair and Mr. Wiskind agreed that by that standard, no variance is required.

That may have eliminated the height issue, which leave the issue of the encroachment on the side yard on the second floor. Mr. Koch stated that the Code language seems slightly contradictory, but will accept the Board's wisdom on this. The Chair informed Mr. Koch that if it is determined that a variance is required and that we have either misconstrued or incorrectly measured, then you may come back, because from what you are telling us, it is not required, but you have already requested it. Mr. Koch stated that he had come on the assumption that a variance was required based on his conversations with Mr. Tomasso because the wording of the Code is ambiguous and this is Mr. Tomasso's interpretation.

The Chair stated that the Board's problem for tonight is that because the Board is not sure what you are requesting, we would be unable to give it to you, and further pointed out that the Board could not say that applicant can have a 34-foot height when you need 36 feet, and it could not say that applicant can have 38 feet when 34 feet is needed. Mr. Koch asked if applicant may have a Code interpretation from the Board. The Chair replied that the

applicant absolutely may, but the Board needs to know what you are requesting. Mr. Koch stated that the request is for the roof to be 34 feet high from the average grade on the property, but noted that the Zoning Code defines the average grade as the grade of all four sides averaged out. Mr. Wiskind added that this is measured along the base of any exterior wall. Mr. Koch stated that because the grade is very short in the front and very long in the back, the average is somewhere in between. Mr. Koch reiterated that the request is for a roof ridge to be 34 feet above the average grade of this building.

Mr. David noted that if you take the maximum of 30 feet and 38 feet, that leaves you with 34 feet. Mr. Koch stated that they are proposing to build a roof that is 34 feet above the average grade of the property, and that the roof would be 40 feet above the lowest point where the house meets grade, as described on the drawings, so the average is somewhere between this and the front, which is basically 29 feet. The Chair asked if Mr. Koch meant between 40 feet and 29 feet. Mr. Koch replied yes, based upon the actual grade. Messrs. David and Wiskind discussed the Code interpretation and suggested that Mr. Tomasso could come to the next meeting.

Mr. David added that he has asked other questions, such as about the retaining walls, which also require an adjournment. Mr. Koch suggested that he be permitted to address the zoning questions first, and added his assurance that we will be under the scrutiny of the Building Department, and that we will not be allowed to jeopardize the structural safety of the future owners of the house, and noted that indeed, his license is resting on that. Mr. Koch stated that for tonight he is particularly interested in establishing how big the volume of the house can be and where the volume can be, and expressed his confidence that with that information, they will build the house properly, noting that in fact, they are not changing the house much.

The Chair asked if there was anyone present who wished to speak in opposition to the application.

Mr. Jeffrey Zuckerman, of 30 Euclid Avenue addressed the Board. Mr. Zuckerman informed the Board that he and his wife are the next house neighbors, owning the brown house. Mr. Zuckerman asked about average grade, which he understands to be four dimensions around the house, and wonders how one can get a figure without taking the readings on four sides to average them out. Mr. Koch stated that he has walked around and measured on all four sides. Mr. Zuckerman stated his concern that the proposed second floor master bedroom looks in on his covered balcony. Mr. Koch pointed out that that is lower than any of the height limitations, and that a zoning variance is not being sought for that at all.

Mrs. Amdur Zuckerman, also of 30 Euclid Avenue, Ardsley, New York, also addressed the Board. Mrs. Zuckerman asked to see where the proposed deck would be. The Chair replied that the deck would be on the side furthest from Mrs. Zuckerman's house. Mrs. Zuckerman also asked if the proposed deck would be over the existing cement patio. The Chair replied that the request for a variance for the deck has been withdrawn, so should applicants build

the deck, they will build it as of right, within the guidelines, and the Zoning Board may not deny the right to build the deck as long as it is within the building format. The Chair asked if there was anyone present who wished to speak in favor of the application. There were none.

The Chair asked if there was anyone present who wished to express comments on the application.

Mr. Petouolo, of 35 Judson Avenue, Ardsley, New York, addressed the Board. Mr. Petouolo stated that he lives at the bottom of the hill directly below the subject property, and that he does not want anything to go any higher. The Chair advised Mr. Petouolo that the requested encroachment is to the side of applicants' house, not to the rear. The Chair also informed Mr. Petouolo that if the Board denies the requested side yard setback variance, applicant can still go up within the confines of the Code, because if a variance is not required, applicant can go up without the Board's approval. Ms. Slipp added that it was a matter of the Village Code. Mr. David informed Mr. Petouolo that the Village Code under which the Zoning Board operates is passed by the Village Board of Trustees. Mr. David reiterated that if what is being asked does not exceed what is allowed, then by law applicant can do it. Mr. Petouolo stated that the Zoning Board stopped him from going up when he intended to a few years back. The Chair directed Mr. Petouolo to the architect's drawings, stating that the items in red pencil are those do not conform to the Code. Mr. Petouolo reiterated that he does not want anything higher to be built on top of him. The Chair informed Mr. Petouolo that his comments are on the record and will be taken into consideration.

Mr. David asked Mr. Petouolo if he could see applicants' house from his house now. Mr. Petouolo replied that he can, and added that he has a building lot behind his house that goes all the way up to applicants' property.

Mrs. Zuckerman added that in favor of the application, the house does need a facelift, and it would enhance the value of the rest of the neighborhood a little bit. Mrs. Zuckerman stated that it is an old house and there is charm to it but that it does need a facelift. The Chair asked Mrs. Zuckerman if she knew how high her house is. Mrs. Zuckerman replied that she did not, and stated that her house is higher than applicants' house, but noted that it is difficult because the property grades differently and she does not know if it is higher from the back.

The Chair advised Mr. Koch that the Board will formulate some questions and will obtain additional measurements and definitions from you, and will adjourn this matter to May 25<sup>th</sup>. that Mr. Koch's answering the questions will allow the matter to move forward; and that the Chair will advise Mr. Tomasso that the request for a variance for the deck has been withdrawn. Mr. Wiskind added that as the Board members understand it, the height limitation does not apply, but the members want to make sure of the math, and noted that if the height is not an issue, and then the only thing we are considering is that side, and you saw what happens from the prior application.

Mr. Amir asked applicant to provide photographs of the side of the house showing the parking pad. Mr. Koch asked if parking was relevant to the height issue. The Chair replied that it was not, but advised Mr. Koch that the Zoning Board may ask whatever questions they believe to be relevant to the application. Ms. Slipp asked if the Zerens are living in the house now. Mr. Koch replied that they are not.

Mr. Koch asked the neighbor if he could take photographs of the subject house from the neighbors' house to see how your house would be impacted, or if the neighbor would be able to take the picture for him. The Chair informed Mr. Koch that he could not take photos from the interior of the neighbors' house, and Mr. Amir suggested that a photo might be adequate if taken from the ground between the two houses.

The Chair advised to mark that the request for the variance for the deck has been removed, that the Board will check with Mr. Tomasso regarding the height requirements, noting that if height is still an issue, applicant will need to come back with additional figures so that the Board can understand what we would approving or denying, as well as to address the side yard setback variance.

Mrs. Zuckerman asked if the neighbors are allowed to request blockage or if applicants are required to provide any blockage. The Chair advised Mrs. Zuckerman that once applicants have a variance, the application will need to go to the Planning Board, which will do a site plan, and determine if any screening is required. Mr. Koch asked when the next Planning Board meeting was, and if it would be possible to go to the Planning Board while the application before the Zoning Board is pending. The Chair advised Mr. Koch to speak to Mr. Tomasso, who will provide the date and permit the matter to be brought there.

Ms. Slipp moved, and Mr. Wiskind seconded, that this matter be adjourned to the May 25<sup>th</sup> meeting of the Zoning Board of Appeals. **Vote:** 5 in favor, none opposed, none abstaining.

## 7) **Adjournment**

There being no other business before the Zoning Board of Appeals, on motion of the Chair, seconded by Ms. Slipp, which motion passed unanimously, the meeting was adjourned at 9:40 PM.

Respectfully submitted,

Judith Calder

Recording Secretary