

**MINUTES  
VILLAGE of ARDSLEY  
ZONING BOARD of APPEALS  
REGULAR MEETING  
WEDNESDAY, MAY 25, 2016**

**PRESENT:** Patricia Hoffman, Chair  
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 the next meeting of the Zoning Board of Appeals will be on Wednesday, June 22, 2016 at 8:00 pm.

**3) Approval of Minutes**

Mr. David moved, and Ms. Slipp seconded, that the Board approve the minutes of the Village of Ardsley's Zoning Board of Appeals meeting of April 27, 2015. **Vote:** 4 in favor, none opposed, none abstaining.

**4) Continuation of 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).**

**Attendees:** Mitchell and Christine Zeren, Applicants  
Mitchell Koch, Architect  
Jon Klein, Personal Representative of Applicant

The Chair stated that this Public Hearing had been adjourned because there were questions as to the requested height of the building, in particular that the paperwork requested a height of 32.25 feet, but that Mr. Koch had testified that the requested height was 34 feet, and the Legal Notice listed the requested height as 40 feet. The Chair also stated that the request for the variance regarding the deck had been withdrawn, and noted that the Board had not indicated a problem with the request for the variance from the side yard setback requirements in order to build up along the wall of the existing house.

Mr. Koch showed the Board revised drawings to indicate that the deck has been redrawn to be built “as of right,” consistent with the withdrawal of the application for a variance for the deck.

Mr. Koch stated that the height requested for the proposed house is 34 feet above average grade and 40 feet above the lowest grade at the lowest corner of the house.

Mr. Koch responded to the earlier request to demonstrate how the proposed house with the higher roof would fit with its neighbors. Mr. Koch provided a panoramic photograph, as the Board had requested, and noted that the photograph is somewhat distorted. Mr. Koch also provided contour maps from the Westchester GIS maps to show the base elevations of each of the houses, and showed how he rendered those to scale on a street scape he showed the Board. Mr. Koch pointed out that, as seen from the street, there is an approximately 3-foot difference between the height of one adjacent house to subject proposed house, and then a 5-foot drop to the next house, concluding that, while perhaps exaggerated on the drawing, demonstrates that we’re moving downhill.

Mr. Koch reported that to further demonstrate the proposed height of subject house relative to its neighbors, he used a laser measurer to measure the height of the adjacent houses to their eaves. (Mr. Koch noted that the measurements were taken from the street, as Mr. Tomasso had advised that they would not be allowed on anyone else’s roof.) Mr. Koch reported that according to these laser measurements, the proposed height of subject house sits comfortably within the existing roof line of the two neighbors, and seems to be lower by a few feet, but added that as to the height of the neighbors’ houses it is an approximation, whereas it is exact as to the proposed height of applicants’ house.

Mr. Koch also responded to the Board's prior request for evidence that the parking pad would accommodate more cars with a photograph showing that two or three cars can easily fit on the parking pad, and Mr. Koch noted that the driveway itself should accommodate 2 cars, and the garage a third.

Mr. Koch summed up the request for a variance, reiterating his contention that the proposed house is completely in character with the neighborhood, indeed more so than the current house, and would be a good neighbor to the two houses adjacent, and emphasizing that the variance is needed more because of the significant slope of the property than because of the height of the proposed house itself.

Mr. David asked why Mr. Koch was able to measure the height of the neighboring homes only to the eaves. Mr. Koch explained that because the ridge, or absolute peak, of any roof is set back, it is almost impossible to get an accurate vertical measurement, though he suggested that a surveyor might be able to do it. Mr. Koch noted that his focus in providing the measurements of the adjacent properties was to show only that the roof of the proposed house would be within the roof line. The Chair emphasized the Board's concern that the proposed house will not tower over either neighbor. Mr. Koch agreed, and pointed out that it is lower than one neighbor and is very far from another neighbor. Mr. Koch also noted that an adjacent property may have a slightly higher mean elevation than that of the subject property, but that the lowest elevation of the subject property is lower than its neighbors.

Mr. David asked about the ownership of the parking pad, and Ms. Slipp asked Mr. Koch to show the location of the driveway on the architect's drawing. Mr. Klein responded, stating that the parking pad is on the property itself, and that there is a Certificate of Occupancy for the parking pad. Mr. Klein noted that although the permit was pulled years ago, Mr. Tomasso issued the Certificate of Occupancy last year. The Chair stated that the Board's concern about sufficient parking is because street parking requires a permit from the Ardsley Police Department, and Ms. Slipp added that it has become increasingly difficult to obtain such permits.

Mr. David asked Mr. Koch if he had followed up Mr. David's previously expressed concern about the retaining wall and its ability to bear the weight of the additional story. Mr. Koch advised that he would address this concern with the Building Department, and will do the engineering that is required, but noted that he believes that there is no structural issue, as the proposal does not add a story but only increases the height of an existing story, so the load will remain the same. Mr. Koch also pointed out that the load from the upper story and the roof does not load on the back wall. He stated that the house is structured to bear the load on the side walls, with all the framing running North-South, and showed the two girders in the basement running in that direction. For both reasons, Mr. Koch believes there will be no impact on the retaining wall which is approximately 12 feet behind the house.

Mr. Koch stated that they will need to be mindful of the load on the columns that support the deck, especially the one that will sit on the lower concrete walkway, but added that this is a relatively small point load. Mr. Wiskind asked if the concrete slab would be removed. Mr. Koch replied that it would be cut and then finished above so that it appears that the column is coming out of the slab, but actually the column will be 42 inches below grade. He noted that you often have to go deeper than the required 42 inches to get to solid earth, especially when the deck is at the rear of the house, due to the debris that was sometimes thrown down a hill when basements were dug when older houses were cut and filled.

Mr. David asked about plan for drainage, especially with concern for neighbors on Judson sited well below the slope of the subject property. Mr. Koch replied that the plans do not include any change to the impervious surface of the property, which is why they are not required to appear before the Planning Board. Mr. Koch stated that the intention is to rely upon the existing subsurface drainage on the property, unless Mr. Tomasso tells them otherwise.

Mr. David asked if there are plans to remove the swimming pool. Mr. Koch replied that there are no plans to do so.

The Chair if there will be any change to the footprint of the property. Mr. Koch replied that there is none at all.

The Chair asked if anyone present wished to speak in favor of or in opposition to the application. There were none.

Mr. Wiskind moved, and Mr. David seconded, that the Public Hearing be closed. **Vote:** 4 in favor, none opposed, no abstentions.

### **Close Public Hearing**

After the Board considered the various facets of the Village Code as to height, Mr. Wiskind proposed the following resolution:

WHEREAS, Mitchell and Christine Zeren, of 34 Euclid Avenue, Ardsley, New York, have 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 setbacks, and a variance from the requirements of Section 200-23, Subdivision A, of the Zoning Ordinance of the Village of Ardsley for building height and for vertical distance to the highest point of the roof, for permission to construct a second story addition as detailed below; 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 34 Euclid Avenue, Ardsley, New York, and designated as Section 6.80, Block 68, Lots 11, 12 and 13, in an R-3 single-family residence district on the tax maps of the Village of Ardsley; and

WHEREAS, after due notice by publication, 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, 2016, and was continued on May 25, 2016; and

WHEREAS, at the hearing, applicants' architect, Mitchell Koch, and applicants' representative, Jonathan Klein, each appeared in support of the application; and

WHEREAS, at the hearing, during open audience participation, Mr. Petruolo and Mr. and Mrs. Zuckerman each appeared and made comments about the application, and all those who desired to be heard were heard at the hearing; and

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

- (1) applicants originally had also requested a variance from strict application of Section 200-26(B) of the Code of the Village of Ardsley entitled "Yard Requirements" for the construction of a deck that, as initially proposed, would have encroached upon the side yard setback, but applicants have since modified their plans such that the deck will now be built as of right, and therefore no variance is required, and applicants have withdrawn this part of their original variance request; and
- (2) applicants continue in their request for a variance from strict application of Section 200-26(B) of the Code of the Village of Ardsley entitled "Yard Requirements," requiring the width of side yards to be a minimum of 15 feet, where the existing side yard setback on the South side of the existing house is only 8.94 feet from the property line, and the proposed addition would increase the height of the house along the same 8.94 feet variance; and
- (3) applicants also continue in their request for a variance from strict application of 200-23(A) of the Code of the Village of Ardsley entitled "Building Height," requiring buildings with a pitched roof to have a building height not to exceed 30 feet from grade plane, where the present building height is 25 feet and the proposed building height is 34 feet; and from that same section of the Code, requiring buildings to have a vertical distance from the highest point of the roof to average grade not to exceed 38 feet, where the present vertical

distance is approximately 32 feet and the proposed vertical distance is 40 feet; 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) the houses on either side of the subject house are on similar lots where the land similarly slopes considerably away from the street and are of a height relative to the street front that is consistent with the height of the proposed building after the addition, and the proposed building would have architectural characteristics such as the roof line that are similar to the neighbors on either side, such that 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; and
- (2) upon testimony of the architect for applicants, to build the addition within the side yard setback requirements and thus not on the existing Southern wall would be architecturally and structurally difficult, and to build the addition at a height lower than that requested would preclude maintaining the consistency of the “Dutch hip” roof line on the block, such that the benefit sought by the applicants cannot be feasibly achieved other than by a variance; and
- (3) the requested variance is not substantial as the proposed addition will not further encroach into the existing non-conformity, and it will increase neither the footprint of the building nor the impervious surface of the property; and
- (4) the applicants are relinquishing the existing Certificate of Occupancy for the house as a two-family dwelling, and will obtain a Certificate of Occupancy for the enlarged house as a single family dwelling, which will have a positive impact on the neighborhood, and the proposed addition will make the house more harmonious with the height of neighboring houses while preserving the somewhat unique architectural style they share, and thus will improve the block, and therefore the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) as the design for expanding the livable space is dictated by the existing non-conforming side yard setback and the house’s existing architecturally unique roof line, the circumstances requiring the area variance was not self-created;

NOW THEREFORE, be it resolved that the application of Mitchell and Christine Zeren for a variance from strict application of side yard setback requirements is

granted, and that the application of Mitchell and Christine Zeren for a variance from strict application of building height requirements, if one is required, is granted.

Mr. Wiskind moved, and Mr. David seconded, that the above Resolution be approved. **Vote:** 4 in favor, none opposed, none abstaining.

5) **Adjournment**

There being no other business before the Zoning Board of Appeals, the Chair adjourned the meeting at 8:58 PM.

Respectfully submitted,

Judith Calder  
Recording Secretary