

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING
WEDNESDAY, AUGUST 24, 2016**

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

1) **Call to Order**

The Chair called the regular meeting to order at 8:03 pm.

2) **Announcements and Approval of Minutes**

Announcements

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, September 28, 2016 at 8:00 pm.

Approval of Minutes

The Chair moved, and Mr. David seconded, that the minutes of the meeting of May 25, 2016 be approved. Vote: three in favor, none opposed, one abstention. The Chair, Mr. David and Ms. Slipp voted in favor of approval. Mr. Amir abstained as he had not been present at the meeting of May 25, 2016.

The Chair stated for the record that Ms. Calder's minutes are detailed and excellent.

3) **Public Hearing**

Application for Variance from Village Code Requirements

Qing Chang and Jing Chen

12 Kensington Road, Ardsley, New York.

Section 6.90, Block 87, Lot 5 in an R-3 One-Family Residential District

For a proposed single-story rear addition with a North side yard setback of less than 15 feet (Village Code § 200-26B).

Present: Patricia Hoffman, Chair
Jacob Amir
Mort David
Ellen Slipp

Attendees: Qing Chang, owner
Paul Dennis, architect

The Chair read the legal notice into the record.

Open Public Hearing

The Chair requested “green cards” showing proof of service. Mr. Dennis produced the thirteen cards received in response to those mailed, which he believes were seventeen. The Chair noted that the Affidavit of Mailing, which stated that the Notices had been mailed on August 11, 2016, was dated August 17, 2016. The Chair underscored the need to ascertain that adequate notice had been provided to any potentially interested parties. Mr. Dennis offered to produce the receipts of the mailings. The Board took cognizance of the dates of delivery on the green cards produced (to wit: delivered primarily on the 12th through 15th) and determined that receipt of mailing was not required.

The Chair noted issues with the original Zoning Worksheet, and asked if there was an updated one. Mr. Dennis provided an updated Zoning Worksheet. Ms. Slipp asked how the updated Zoning Worksheet differed from the original. Mr. Dennis explained that as to the floor area, the original Zoning Worksheet included the basement, which should not have been included. The Chair pointed out that the new Zoning Worksheet has the floor area for the garage removed, and that this square footage needs to be added back in. Mr. Dennis stated that the garage floor area was included in the updated number.

The Chair pointed out that the floor area requested on the original Zoning Worksheet, which included the basement, was 3,465 square feet, which is more than 650 square feet over the existing 2,716 square feet of the house. Mr. David stated that he does not think it is that large. Mr. Dennis stated that the 2,716 includes the unheated screened in porch, but admitted that he does not know if that should be included in the floor area, as it has a roof and is on a slab. Mr. David read from the Village Code, definitions of porches: “a floored and a roofed structure at or above ground level, physically attached to part of the main building. No porch shall be included in the minimum building area required, unless fully enclosed and heated.” Village Code, page 208. The Chair pointed out that the screened-in patio is not fully enclosed, and Mr. David added that it is not heated, and therefore he questions the inclusion of this in the new calculation, especially as no real estate agent would consider it “living area.” Ms. Slipp asked if the intent was to keep this porch unheated. The Chair explained that it is being called a “porch” rather than a “patio” because it is slightly above grade and it has a roof on it. The Chair asked Mr. Dennis to confirm that he had included this “porch” in

the calculation on the new Zoning Worksheet, and Mr. Dennis confirmed that he had included it, and added that if he was not supposed to have included it, he would happily take it out of the calculations. The Chair pointed out that if it has been included and if it should not be, it reduces the 2,716 square feet listed by the square footage of the porch, and asked what the square footage of the porch was. Mr. Dennis reported that it is 12 feet by 25 feet. The Chair pointed out that those 300 square feet would not make the difference, as it would not put the floor area requested squarely under or over the maximum, but stated that it would be useful to know if the Zoning Worksheet was accurate.

The Chair also asked about the land coverage numbers on the Zoning Worksheets, pointing out that the land coverage on the original Zoning Worksheet was listed at 3,411 square feet, and asked what was included in the increased number on the updated Zoning Worksheet that had not been included on the original version. Mr. Dennis stated that he had field measured the house, and that his measurement was 60 feet different from the surveyors, and that he used the higher number. Mr. Dennis explained that he then added not only the screened-in porch, but also the patio that extends beyond it, and that he also added in the driveway. The Chair stated that she had received an email stating that the measurement in the original Zoning Worksheet included the amount of the driveway in the right-of-way, which should not have been included in the amount of land coverage requested by the property owner, and asked if the land coverage initially requested had included too much of the driveway, i.e., that portion of the driveway that is in the right-of-way. Mr. Dennis stated that the number he had used for the driveway had not included the area of the driveway that is in the right-of-way, but only included the portion of the driveway that extended from the property line to the garage door.

The Chair asked if the 3,411 originally requested did not include the two concrete patios but did include more of the driveway than it should. Mr. Dennis replied that the square footage requested for land coverage included only the 565 square feet of the driveway that it should include, which is only that portion of the driveway that is within the property lines. The Chair asked if the land coverage requested on the updated Zoning Worksheet was an increase of 181 square feet. Mr. Dennis confirmed that this is correct, and explained that the discrepancy was accounted for by including the porch and the 60 feet differential over the survey. Mr. Dennis did not include the stone walls, per Building Inspector Mr. Tomasso, to arrive at the 3,411 square feet. Mr. Dennis reiterated that the increased was caused by using the higher of the two measurements of the house (Mr. Dennis' field measurement and the surveyors' measurement), which was a 60-foot difference, and adding in the patios, as the driveway square footage, not including the portion in the right-of-way, had already been included.

The Chair inquired into the purpose of the addition. The owner, Mr. Chang explained that the focus was to provide a larger and newer master bedroom and master bathroom, and to give the children a study area. Mr. David stated out that this application was before the board was because of the side setback, and pointed out that if applicant attempted to achieve

this purpose by building out toward the rear of the property, no variance would be needed. Mr. David therefore asked why applicant the option was to expand on the side instead. Mr. Dennis explained that the extension cannot be done toward the rear, because that would result in a ten-foot wide master bedroom. The Chair asked if the intent is to square off the left rear corner of the house, and when Mr. Dennis confirmed that this was correct, the Chair noted that expanding the bedroom by bringing it straight back would require it notching in.

The Chair inquired about the current number of bedrooms in the house. Mr. Dennis reported that there are three bedrooms on the main level and an additional bedroom in the basement. The Chair asked about the current and proposed size of the master bedroom. Mr. Dennis reported that the master bedroom is currently 12 feet by approximately 16 feet, and that the bedroom as proposed would be 12 feet by 23 feet. Mr. David asked if this included the master bathroom, and Mr. Dennis replied that this did not, and explained that the plan is to turn the existing master bathroom into a walk-in closet.

Mr. Amir asked Mr. Chang when he purchased the house. Mr. Chang replied that he bought the house four years ago. Ms. Slipp asked if the prior owners had made any changes to the house. Mr. Chang stated that he had been told by the realtor that the prior owner had not reported things like the porch, and that the prior owner had paid a fine to clear up the changes she had made to the house to make it eligible to be sold. Mr. David wondered whether a prior variance had been or should have been granted. The Chair pointed out that this house was built in 1956, predating the 1958 Code, and noted that side yard setbacks used to be only five feet, so one could reasonably infer that the house as built was likely within code at that time.

The Chair asked how many bathrooms there are presently in the house. Mr. Dennis reported that there are three and a half bathrooms in the house, as follows: one full bathroom in the master bedroom, one full bathroom for the secondary bedrooms, a small full bathroom off the garage, and a half bath in the basement. The Chair asked Mr. Dennis to confirm that bedroom 2 and bedroom 3, together with the bathroom that serves them, do not change in this addition, and Mr. Dennis so confirmed. The Chair and Mr. Amir asked for clarification about the area labeled “study.” Mr. Dennis explained that the study will be in part of what is now the master bedroom, and that removing the existing door off the corridor to the current master bedroom will create an open study area. The Chair asked how many children are in the family, and Mr. Dennis informed the Board that there are two children.

Mr. David noted approvingly that the plans include putting in an additional drywell, which Mr. Dennis confirmed.

The Chair asked how the proposed addition will affect the rear roof line. Mr. Dennis stated that the proposed rear roof line will be one foot below the front roof line and will be one foot below the neighbor’s roofline, so that it will not be within the sight lines of the neighbors or from Kensington Road. Ms. Slipp asked if the house faced the power lines. Mr. Dennis

produced a photograph to show that no neighbor, only the Sprain Parkway, is behind applicants' property.

The Chair pointed out that the current setback is 13 feet and the proposed setback is 13.5 feet, and asked how you pick up a half a foot in setback. Mr. Dennis stated that the property line is not straight or parallel to the house line. The Chair asked if therefore the proposed addition will impose on the setback less than the existing house currently does. Mr. Dennis confirmed that the proposed setback will impose less.

The Chair and Mr. David each noted that many houses in that neighborhood have expanded. The Chair advised the applicant that when a proposed addition maintains the same line as current structure and does not adversely affect neighbors, it has been the Board's tendency to approve such applications. Ms. Slipp indicated her inclination to approve the request, but wondered if the applicant might need to go to the Board of Architectural Review or the Planning Board.

Mr. Amir asked why the Board had been provided pictures of 10 and 14 Kensington. Mr. Chang stated that he and his wife had visited their neighbors personally to explain what they want to do. Ms. Slipp noted that it appears that some of Mr. Chang's neighbors have already expanded. Mr. Chang stated that he does not know. The Chair remarked that the photographs were provided for additional reference points.

Ms. Slipp asked if the birch tree would be staying, and Mr. Chang reassured her that it is a Paper Birch with peeling bark, and that it is staying and will not get lost.

The Chair noted that no one from the public was present to speak in favor of or in opposition to the application.

The Chair advised applicant that the documents need to be resubmitted correctly, so that they are on file in the correct form. The Chair specified that applicant needed to correct not only the Zoning Worksheet, but also the application itself, pointing out that the application states that the existing building size is presented as 3,465 square feet, with a requested increase to a total of 4,227 square feet. The Chair stated that she will inform the Building Inspector to wait until these documents are submitted. Mr. Dennis advised that he would ask whether or not to exclude the square footage for the porch.

Mr. Amir moved, and Ms. Slipp seconded, that the public hearing be closed. **Vote:** Four in favor, none opposed, none abstaining.

Close Public Hearing

Mr. David proposed the following Resolution:

WHEREAS, Qing Chang and Jing Chen, 12 Kensington Road, Ardsley, New York, has applied to this Board for a variance from strict application of Section 200-26, Subdivision B, of the Zoning Ordinance of the Village of Ardsley, requiring the width of side yard setbacks to be 15 feet from the property line; 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 12 Kensington Road, Ardsley, New York, and designated as Section 6.90, Block 87, Lot 5 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 August 24, 2016 after due notice by publication; and

WHEREAS, at the hearing, owner Qing Chang and owners' architect, Paul Dennis, appeared in support of the application, and no one appeared in opposition to the application; 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 neighboring homes have been expanded and the proposed addition would not be readily visible to the street or neighbors;
- 2) the benefit sought by the applicant cannot be feasibly achieved other than by a variance, as applicants' architect has testified that a narrower addition in the proposed location would not yield usable living space, and an addition in another location would require reconstruction of much of the residence;
- 3) the requested side setback area variance is not substantial in that the proposed addition aligns with the existing house, which is set back 13 feet, and indeed encroaches on the side setback 6 inches less than the existing house does due to the angle of the property line;
- 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 variance was not self-created.

NOW THEREFORE, contingent upon the correction of documentation provided to the Zoning Board of Appeals relating to square footage of floor area and land coverage, be it resolved that the application of Qing Chang and Jing Chen is granted.

Mr. David moved, and Mr. Amir seconded, that the Zoning Board of Appeals adopt the above resolution.

VOTE: 4 in favor, 0 opposed, 0 abstentions, as follows:

Patricia Hoffman, Chair:	AYE
Jacob Amir:	AYE
Mort David:	AYE
Ellen Slipp:	AYE

4) **Adjournment**

There being no other business before the Zoning Board of Appeals, on motion of the Chair, seconded by Mr. Amir, which motion passed unanimously, the meeting was adjourned at 8:50 PM.

Respectfully submitted,
Judith Calder
Recording Secretary