

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING
WEDNESDAY, OCTOBER 26, 2016**

PRESENT: Michael Wiskind, Acting Chair
Jacob Amir
Mort David
Ellen Slipp

1) Call to Order

The Chair¹ called the regular meeting to order at 8:03 pm.

The Chair announced that the agenda would be taken out of order.

2) Announcements and Approval of Minutes

Announcements

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, November 30, 2016 at 8:00 pm.

Approval of Minutes

Ms. Slipp moved, and Mr. David seconded, that the minutes of the meeting of August 24, 2016 be approved. Vote: three in favor, none opposed, one abstention. Ms. Slipp, Mr. David and Mr. Amir voted in favor of approval. The Chair abstained as he had not been present at the August meeting.

3) Public Hearing

Application for Variance from Village Code Requirements

Carol O'Neil-Roberts

12 Dellwood Lane, Ardsley, New York.

Section 6.30, Block 14, Lot 33 in an R-1 One-Family Residential District

¹ In the absence of Chair Patricia Hoffman, Mr. Wiskind served as Chair.

For a proposed two-story addition and additional drive and walkways, where proposed house size and existing and proposed gross land coverage exceed maximum permitted amounts (Village Code § 200-83B-C).

Present: Michael Wiskind, Acting Chair
Jacob Amir
Mort David
Ellen Slipp

Attendees: Carol O'Neil-Roberts, applicant
Pat Acocella, owner
Sid Schlomann, architect

The Chair read the legal notice into the record.

Open Public Hearing

Ms. Slipp stated for the record that she has known applicant Carol O'Neill for approximately twelve years, that they are acquaintances who used to ride the train together but have not socialized together for at least six or seven years, and further stated that nothing about the acquaintanceship would impede her ability to be impartial in this matter.

Mr. Schlomann explained that the existing one-family house, which is on 1.2 acres, has neither a basement nor a garage, and that the present proposal is for a three-car garage that includes storage, and for a room above the garage, which also includes storage. Mr. Schlomann stated that the proposal is zoning compliant in terms of rear and side setbacks and building coverage, but that the land coverage, due to the swimming pool and walkways and patios, would result in impervious surface exceeding the maximum amount. Mr. Schlomann also stated that because garage and storage count for FAR, the proposed garage and storage would bring the total FAR to above the allowable limits. Mr. Schlomann added his opinion that the proposed 3-car garage is in keeping with the size of the house and the lot, and consistent with the character of the neighborhood, and therefore would not negatively affect the environment or character of the neighborhood. Mr. Schlomann noted that next door to the home is a school ball field, and there are no residential neighbors in the immediate vicinity.

The Chair asked if applicant had green cards, which Ms. O'Neil-Roberts delivered to the Recording Secretary. Applicant produced green cards and reported that all were returned save the one addressed to Fenimore, which address applicant stated does not exist.

Mr. Amir asked Mr. Schlomann if he had any photographs of the house, and Mr. Schlomann replied that he did not, and added that they were waiting for the BAR.

The Chair stated that the Building Inspector had advised the Zoning Board of Appeals that this application also requires approval of a special permit from the Planning Board. The Chair explained that while a variance from the Zoning Board of Appeals is a necessary condition, it is not a sufficient condition, and that therefore nothing will be finalized at this meeting.

Mr. David noted that applicant had received approval from the Zoning Board seven years ago, and asked why applicant had not proceeded then or since. Mr. Acocella stated that two factors kept them from proceeding: that the recession made money tight, and that applicants did not like the design of the prior architect. Ms. O’Neil-Roberts added that owners did not like that the garage, as previously proposed, was set back and would have been right on top of the patio. Ms. O’Neil-Roberts explained that in this proposal the garage would have a natural curve into the driveway, and would lead to the house via a mud room and laundry. Ms. O’Neil Roberts also stated that the prior design was for a two-story detached garage with a breezeway, and that new zoning regulations have changed since then and now prohibit two-story detached garages.

The Chair noted that the space above the garage is very large and unpartitioned, and asked what that space will be. Ms. O’Neil-Roberts stated that the house has no basement and no storage, and that the present crawl space is barely enough for Christmas decorations. Mr. David asked if the space was intended exclusively for storage. Ms. O’Neil-Roberts stated that she currently has insufficient storage even for suitcases. The Chair asked why there is a half bath there, and Ms. O’Neil-Roberts explained that she would like her husband to clean up after work there before coming into the house.

Mr. Amir asked the architect to “walk” the Board through the plan. Mr. Schlomann stated that you enter the property from Dellwood via an existing curb cut and driveway, which is partially paved but mostly grass, that there would be a bluestone walkway to the front door, and that the three-car garage would be 28 feet deep, which is deep enough for cars with storage along back. Mr. Schlomann added that the garage has a door to the mudroom, stairs up to the storage area, and stairs up to area above.

Mr. Amir asked why the plan is for a three-car garage and not a two-car garage. Mr. Schlomann replied that a three-car garage seemed in scale with the size of the house and gave symmetry. Mr. Acocella added that the house across the street also has a three-car garage. Ms. O’Neil-Roberts stated that they need a three-car garage because they have two cars and Mr. Acocella has a work van, and the garage will protect the cars and van from the many balls from the adjacent school ball field that she picks up from the back yard.

Ms. Slipp asked where the garage doors face. Mr. Schlomann stated that the garage doors face the driveway, which is perpendicular to Dellwood. Mr. Schlomann added that

the garage doors face no neighbors, but would face the ball field, and noted that the driveway is a little deeper to give room to turn out. Ms. Slipp asked what driveway surface is intended. Mr. Acocella reported that it would be asphalt with Belgian block at the edging and an apron in front.

Mr. Amir asked when the owners purchased the home. Ms. O'Neil-Roberts stated that it was purchased in the 1990s. Mr. Amir asked where owners park now. Ms. O'Neil-Roberts stated that they park everywhere, on the grass, leading to mud everywhere.

The Chair stated that he would like to see photographs to get a sense of what is there now, what is next door, what the view would be, etc.

While acknowledging that the Zoning Board cannot advise on Planning Board issues, the Chair noted that the proposed impervious surface is a considerable amount over what is permitted by code. Mr. Schlomann stated that they have a storm water plan to address the amount of impervious surface planned.

The Chair asked if any member of the public wished to speak in favor of or against the application. No member of the public present so wished.

Mr. Amir asked if other options had been considered. Mr. Schlomann stated that they had reconsidered a detached garage, but that would mean that the owners would be walking through snow and mud to get from their cars to the house, and that it made more sense to them to transition into the kitchen. Mr. Schlomann added that an attached garage would mean adding three foundations instead of four. Mr. Schlomann stated that after looking at the size and scale and other locations, the solution as currently proposed dictated itself.

Mr. David noted that the previous plan had a detached garage, and asked, other than the addition of a second story, how this application differs from the prior one. Mr. Schlomann advised that the earlier plan had additional impervious surface because it had not only the garage, but also pavement to a further location, as well as a breezeway. Mr. David asked how the footprint differed. Ms. O'Neil-Roberts stated that from very beginning it was a three-car two-story garage. Mr. David asked if the difference was that it was not attached. Ms. O'Neil-Roberts stated that they received approval seven years ago for an attached two-story three-car garage. Mr. Acocella stated that they did not like the plans that were then approved because they did not want garage doors facing the street. Mr. Schlomann added that in the current plan, windows are facing the street and the garage doors are less visible.

The Chair noted that there is a lot of mass in the proposed two-story structure, and asked if the floors were standard ceiling height. Mr. Schlomann confirmed that the ceilings were of standard height. The Chair suggested they might consider something that would

be less mass from the street, noting that 1400 sf is a lot of space. Mr. Acocella stated that if they had a basement, the basement would be more than 1400 sf, and Ms. O'Neil-Roberts added that they do not have storage for anything, including lawn furniture, mowers, and stated that there are four packed sheds on the property which they would take down. Regarding the height, Ms. O'Neil-Roberts noted that the garage is not to be higher than the house, and Mr. Schlomann added that he will carry the roof lines.

Mr. Amir asked if neighbors have three-car garages. Mr. Acocella stated that the neighbor right across the street does, and added that it is a three-story house with a full basement and a basketball court in it.

The Chair and Ms. Slipp requested photographs of neighbors and perhaps a site visit to the property. Mr. Acocella said that board members were welcome to come look at the property.

Mr. Schlomann asked if the procedure was to apply to the Planning Board now and then revisit with the Zoning Board. The Chair said that that was the recommendation of the Building Inspector. Mr. Schlomann asked if the Planning Board was a lead agency, or if they need to hear the application before the Zoning Board can make its determination. The Chair advised that the Planning Board was not a lead agency, but that it needed to hear the application first.

Ms. O'Neil-Roberts asked why they had to go before the Planning Board. The Chair advised that the issues of both land coverage and maximum house size are within the jurisdiction of the Planning Board. Mr. Acocella stated that they had not gone to the Planning Board the last time. Ms. Slipp advised that the rules have changed in the intervening years. The Chair concurred that rules change over time, and stated that it is also possible that the numbers are different now, noting that at the last application there were six or seven separate appearances because your prior architect had not done the calculations correctly.

The Chair remarked that the house is big increase from where it is now, but it is only five percent above the maximum, whereas the lot coverage is already over what is permitted, and this proposal would take it to 74% over the maximum, so it seems highly likely that the Planning Board will question that. Mr. Acocella replied that it would be worth a drive-by, because the other properties on the block are steep slope, whereas applicants' property is wide open and can support this garage. The Chair advised that the Zoning Board is not the Planning Board, and thus does not know all the factors the Planning Board considers, but suggested that the numbers will cause the Planning Board to raise questions. Ms. Slipp recommended that applicants obtain photographs and whatever information they can about neighboring properties in preparation for whatever the Planning Board may ask.

Mr. David pointed out that the Building Inspector described the space above the garage as habitable space, whereas applicants describe it as storage space. Mr. David asked if it will be heated or air-conditioned. Mr. Acocella replied that there will be heat in the bathroom. Ms. O'Neil-Roberts stated that her current desire is to put her car in a garage this winter, and does not know what they might use the space for in the future, but she would rather have it there than not. Mr. Schlomann stated that he believes that the Building Inspector's designation of the space as habitable was not dependent upon its ultimate use, but rather that whether the space is finished or unfinished, it counts toward the FAR, so it's immaterial. Mr. Schlomann added that right now it is storage space and that they will have the option. Mr. Acocella stated that applicants do not want to spend the money to finish that space right now, but does not know whether they will wish to do so in the future, adding that they do not need it for anything but storage right now. Ms. O'Neil-Roberts added that they also plan to use it as Mr. Acocella's smoking area. Mr. David reiterated his confusion about the planned use of the above space, and questioned how one would store lawn mowers there. Mr. Acocella replied that lawn mowers would not go there, but all the Christmas decorations and all the lawn furniture (tables, pillows, umbrellas) would. Mr. Schlomann added that they need storage space on both levels, and pointed out that this 1,400 sf is in lieu of a basement that would probably be 2,500 sf.

The Chair advised that the Zoning Board will defer voting on this matter until the Planning Board reviews it.

Mr. Amir moved, and Ms. Slipp seconded, to adjourn this matter until the November 30th meeting. **Vote:** 4 in favor, none opposed, none abstaining, with the Chair, Mr. Amir, Mr. David and Ms. Slipp all voting in favor of the motion. The Chair informed applicants that if they need more time, the matter can be continued to the next month, and advised them to inform Mr. Tomasso if they will need it to be continued.

4) Public Hearing

Application for Variance from Village Code Requirements

Sweet Hollow Properties LLC (by Mr. Richard Mohring)

11 Agnes Circle, Ardsley, NY

Section 6.60, Block 38, Lot 54, in an R-1 One-Family Residential District.

For proposed Two-Story addition with Abington Avenue front yard setback of less than 40 Feet (Code §200-10A).

Present: Michael Wiskind, Acting Chair
Jacob Amir
Mort David
Ellen Slipp

Attendees: Richard Mohring, applicant

Myles Feeney, co-owner, Sweet Hollow Properties LLC
James O'Grady, architect. 126 Glen Street, Glen Cove, NY
Jim Mulvey, realtor for Sweet Hollow Properties LLC
Michele Kaufmann, 9 Agnes Circle, Ardsley, NY

The Chair read the legal notice into the record.

Open Public Hearing

The Chair noted that although the address is nominally Agnes Circle, the frontage is on Abington Avenue.

Ms. Slipp stated for the record that she lives on Abington.

Mr. O'Grady produced 15 green cards received in response to 18 pieces mailed.

Mr. O'Grady stated that Sweet Hollow Properties purchased this property about four months ago as an investment property, and they propose to add a second story to the rather modest ranch, which is currently approximately 2,000 square feet. Mr. O'Grady stated that the existing front yard is 27.2 feet, where 40 feet is the minimum front yard required. Mr. O'Grady produced a site plan, with the area that protrudes into the front yard setback highlighted in yellow. Mr. O'Grady explained that as the one-story property exists, slices through the setback from a point on the North end by approximately four feet and by approximately thirteen feet on the South end of house. Because we propose to add a second floor to this property, we seek a variance, but point out that it is already non-conforming. The impact is less significant. Mr. O'Grady also produced drawings of elevations, with an area outlined in red to show what is already encroaching. When viewed from the South, a small bit of the second floor would be on top of the existing encroachment. The Chair asked if Mr. O'Grady had any photographs of the existing property, and Mr. O'Grady provided one, and explained that the second story addition would be over only the main part of the house, and that the garage will remain one story.

Mr. Amir asked what the dimensions of the proposed second floor are. Mr. O'Grady stated that the proposed second floor would be 49 feet 9 inches by 33 feet 6 inches. The Chair asked if the second floor is currently habitable space. Mr. O'Grady replied that it is just an attic.

Mr. O'Grady stated that the garage will remain one story, and that the second story addition is only over the main part of the house. Mr. O'Grady noted that while the proposal enlarges the existing non-conformance, the rest of the house conforms 100% to the zoning code. Mr. O'Grady went on to specify that under the thirty percent rule, the allowable square footage is 6,480, whereas the proposal is for 4,172; that the basic permitted gross land coverage is 7,306 square feet, whereas the proposal is for 4,488; and that the allowable building coverage is 7,362 square feet, whereas the proposal is for

2,732 square feet. Mr. O'Grady added that while the proposal enlarges the degree of non-conformance, the size and design of the house is keeping with the neighborhood. Mr. O'Grady opined that he does not believe it can be a detriment to the community, as it is expected that the house will sell for more money and will benefit neighbors' property values.

Mr. Amir asked if there were any way to accomplish the goal by other means. Mr. O'Grady stated that it probably could be done by pushing back, but that would leave the awkward non-conforming piece in the front of the house, and added that it also makes financial sense to build straight up. The Chair pointed out that pushing back would also increase the land coverage.

The Chair asked about the height of the proposed house. Mr. O'Grady replied that the plan would bring the height of the house from 23.6 feet to 30 feet.

Ms. Slipp asked about the size of the lot. Mr. O'Grady stated that it is about 1-1/2 acres.

Ms. Slipp asked what materials they intended to use. Mr. O'Grady advised that they would be using asphalt for the roof and hardy plank siding, which is a cement board clapboard, for the exterior walls. Ms. Slipp asked Mr. Mohring if he had a website. Mr. Mohring stated that he did not have a website, but that to get a sense of the style of this property, one could look at the house they are building on Ridge Road across from the Mayor's house, as this house would be similar in style.

Mr. David asked if the areas listed as unexcavated means that those areas would be on a slab. Mr. O'Grady said yes, that this refers to the area under the garage. Mr. David asked if there would be any change to the garage in shape or structure, and Mr. O'Grady advised that there would be no such change. The Chair sought confirmation that the plans for the garage included changing the windows and shingles, and Mr. O'Grady so confirmed.

The Chair asked if any member of the public wished to speak in favor or against the application. None of the members of the public present wished to speak in favor of or against the application, but Michele Kaufmann, the property's next door neighbor, stated that the history of Agnes Circle is that it was originally a closed circle, and that Agnes Circle was cut through the bottom and opened to Abington to provide access for emergency vehicles. Ms. Kaufmann stated that this cut through was between the property that is the subject of this application and the house across the street, so though it may appear that the house is on Abington, it was originally part of Agnes Circle. Mr. O'Grady noted that had it not been for this cut through, the setback in question would have been a side yard setback, and not a front yard setback.

Close Public Hearing

The Chair moved, and Mr. David seconded, to close the Public Hearing. Vote: 4 in favor, none opposed, none abstaining, as follows: Chair – aye, Mr. Amir – aye, Mr. David – aye, Ms. Slipp – aye.

Mr. Amir proposed the following Resolution:

WHEREAS, Mr. Richard Mohring on behalf of Sweet Hollow Properties LLC has applied to this Board for a variance from strict application of Section 200-10, Subdivision A, of the Zoning Ordinance of the Village of Ardsley, requiring the depth of front yard setbacks in an R-1 One-Family Residential District to be 40 feet from the property line, in regards to a proposed first and second story addition to an existing non-conforming dwelling where the existing and proposed front yard depth is 27.2 feet on the Southeast corner of the premises; 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 11 Agnes Circle, Ardsley, New York, and designated as Section 6.60, Block 38, Lot 54 in an R-1 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 October 26, 2016 after due notice by publication; and

WHEREAS, at the hearing, Sweet Hollow Properties LLC partners Richard Mohring and Myles Feeney, together with Sweet Hollow's architect, James O'Grady, 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 be consistent with the size of neighboring homes;
- (2) the benefit sought by the applicant cannot be feasibly achieved other than by a variance, as applicants' architect has testified that gaining the desired

square footage without building above the existing non-conformity would not change or minimize the existing non-conformity, would create an unattractive roof line, would cause considerably greater expense, and would require a larger footprint and more land coverage;

- (3) the requested front yard setback area variance is not substantial in that the proposed addition would add a second story on the existing house, a small triangular portion of which encroaches 12.8 feet on the front set back in the Southeast corner, due to the siting of the house and the geometry of the front property line, and would not otherwise increase the 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 in that it will not enlarge the footprint of the house and it will make the dwelling more alike its neighbors; and
- (5) the circumstance requiring the variance was not self-created;

NOW THEREFORE, be it resolved that the application of Sweet Hollow Properties LLC by Richard Mohring is granted.

PROPOSED BY: Mr. Jacob Amir
SECONDED BY: Mr. Mort David

VOTE: 4 in favor, 0 opposed, 0 abstentions, as follows:
Michael Wiskind, Acting Chair – AYE
Jacob Amir – AYE
Mort David – AYE
Ellen Slipp – AYE

5) **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 8:55 PM.

Respectfully submitted,

Judith Calder
Recording Secretary