

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING
WEDNESDAY, NOVEMBER 30, 2016**

PRESENT: Patricia Hoffman, Esq., Chair
Jacob Amir
Mort David
Michael Wiskind

1) **Call to Order**

The Chair called the regular meeting to order at 8:00 pm.

2) **Announcements and Approval of Minutes**

Announcements

The Chair announced that only four of the five members of the Board were present, which is sufficient for quorum, but that three votes were still required, and that therefore if any applicant wished to adjourn on that basis, that option was available to them.

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, December 21, 2016 at 8:00 pm.

Approval of Minutes

Mr. Wiskind moved, and Mr. David seconded, that the minutes of the meeting of October 26, 2016 be approved. Vote: three in favor, none opposed, one abstention. Mr. Amir, Mr. David and Mr. Wiskind voted in favor of approval. The Chair abstained as she had not been present at the October meeting.

3) **Public Hearing**

Application for Variance from Village Code Requirements

Lock Up Ardsley LLC (by Robert A. Soudan, Jr.),

630 Saw Mill River Road, Ardsley, New York.

Section 6.70, Block 42, Lot 2, in a B-2 Special Business District.

For proposed front exterior wall signage (a) exceeding maximum permitted vertical measurement of 2 feet (Village Code §200-82C(2)(a)[2][a][iii]); and (b) exceeding maximum permitted lettering height of 18 inches (Village Code §200-82C(2)(a)[2][b]).

Present¹: Patricia Hoffman, Esq., Chair
Mort David
Michael Wiskind

Attendees: Jack Fitzgerald, Project Manager, Sam Signs & Awnings

The Chair read the legal notice into the record.

Open Public Hearing

Mr. Fitzgerald produced the green cards received back, and confirmed that the Affidavit of Mailing, dated November 18th, had been provided to the Village Clerk.

Mr. Wiskind asked if there had been a sign proposal in the earlier applications for this project, and Mr. Fitzgerald replied that this is the first time he was appearing before the Zoning Board of Appeals. Mr. Wiskind asked if anyone else had included any signage in the original proposal, and Mr. Fitzgerald replied that as far as he knew, there had been none.

Mr. Wiskind pointed out that the building has long frontage, and asked if it would be possible to have the logo and all the words of the sign on one line. Mr. Fitzgerald stated that the image shown in the application was Lock Up's proprietary logo, noted that Lock Up does have different versions of its logo, but stated that this version was Lock Up's preferred version for this building.

Mr. Wiskind noted that Lock Up does not yet operate in this area, and asked Mr. Fitzgerald if he had photos of the logo versions Lock Up uses in other locations. Mr. Fitzgerald stated that he did not have photos of other signage from other locations.

Mr. Fitzgerald pointed out that the linear front footage of the building is almost 200 feet, and that the proposed sign is only 7-1/4 percent of that. Mr. Wiskind acknowledged that

¹ Mr. Amir recused himself on this matter.

it is a long building, and pointed out that the building is quite close to a road, and that the proposed sign is quite large relative to the height of the building.

The Chair stated that when Lock Up first came to Ardsley, Lock Up stated that it would accommodate Ardsley's small village look and feel, including having the building set back, landscaping with shrubs and greenery, but said nothing about a lighted sign. The Chair asked Mr. Fitzgerald to confirm that the proposed sign was lighted, and Mr. Fitzgerald confirmed that the sign would be lighted, specifying that it would have internally illuminated channel letters on a raceway. The Chair asked if each of the letters is 83" high. Mr. Fitzgerald stated that the 83" was the height of the sign in its entirety, and that the top line saying "The Lock Up" is on its own raceway; then the bar, and then the words "Self Storage, which is another set of channel letters mounted on its own raceway. Mr. Wiskind asked, and Mr. Fitzgerald confirmed, that the proposed signage was nearly two feet on the first row, nearly two feet on the second row, nearly two feet on the third row, for just under seven feet altogether.

Mr. David stated that he distinguishes between signs for advertising versus signs for information, and pointed out that the proposed sign is nearly five times what is allowed, which Mr. David puts into the advertising category. Mr. Fitzgerald stated that this was the sign requested by Lock Up, and that he surmises that Lock Up believed that the proposed sign was best for this building.

Mr. Wiskind pointed out that it was not necessary to have a sign as large as proposed because this sign is only eight or ten feet off the ground and the building is quite close to the road.

Mr. Wiskind asked Mr. Fitzgerald if he, as contractor for producing the sign, had the authority to make changes to the proposed sign on Lock Up's behalf. Mr. Fitzgerald stated that he did not have that authority, that he would have to go back to his client.

Mr. Wiskind advised Mr. Fitzgerald that, even if the Zoning Board of Appeals were to approve the size of the sign, the Board of Architectural Review would become involved on the colors of the sign.

The Chair asked if there are alternatives to the sign submitted by applicant. Mr. Fitzgerald stated that this was the only version proposed by Lock Up. Mr. Fitzgerald added that he is fairly certain that this orientation, with regard to the vertical height versus the width, is pretty much their proprietary logo, and it is more or less to be kept intact. Mr. Fitzgerald said that he could ask his client about changing the orientation to a linear design, but that he could not answer tonight.

Mr. Wiskind remarked that most companies document the standards for their logos, and usually have alternative arrangements or several different ways of arranging the logo for

different purposes, such as business cards. Mr. Fitzgerald asked where would an alternate arrangement go on this particular facade. Mr. Wiskind stated that it is for applicant to propose the design. Mr. Wiskind and the Chair suggested that if it went side by side, it would not be as high, and pointed out that the proposed sign is 83 inches high, almost seven feet, whereas the Ardsley normal is two feet high. Mr. Wiskind also suggested that the sign might work better if it were centered over the area with the office entrance and the garage doors. The Chair stated that if Lock Up wants to keep the logo intact, another alternative might be to reduce the size of the letters. Mr. Fitzgerald noted that if the sign were done in a linear design, it would overlap two areas. Mr. Wiskind reiterated that it is not the Zoning Board of Appeal's job to design the sign. Mr. Wiskind stated that Lock Up has twenty or thirty other locations, and it would be helpful to see what it has done in other places.

The Chair stated that Lock Up, at its original presentation to the Zoning Board of Appeals, had showed the facades of its locations in Arizona and New Mexico, where the signs had a Southwest style. The Chair continued that Lock Up had given the impression that they would do whatever was needed to blend into the community. The Chair stated that the current proposal is stark, which is not what Lock Up promised us two years ago, in their original application.

The Chair noted that the Zoning Board of Appeals has made accommodations on signs for very large buildings, but those buildings have been in the center of town, whereas this building, while not in a residential area, is only one block from residences. The Chair pointed out that the Zoning Board of Appeals must be concerned about a seven-foot high, lighted sign that will shine into people's bedrooms. The Chair stated that she would like to see some alternatives proposed that show some concessions to Ardsley concerns, and that she would like to see examples of Lock Up's signage on other buildings. Mr. Wiskind looked up Lock Up's website, where he found photographs of two locations in Connecticut that have the same logo as that proposed here, but also photographs of some in New Jersey and one on Long Island that have linear signage.

The Chair stated that the lot was zoned half commercial and half residential, and that the Zoning Board of Appeals had granted Lock Up a variance to use it all as commercial space. The Chair said that the proposed sign is very big and very bright, and that Lock Up needs to do more homework. The Chair stated that the Zoning Board of Appeals wants Lock Up to do well, but noted that it will not be confused with other big buildings in the middle of Ardsley. Mr. Wiskind added that the building already has a distinct appearance due to its windows and doors.

The Chair asked Mr. Fitzgerald if he would like to return on December 21st, and Mr. Fitzgerald said that he would. Mr. Wiskind reminded him to bring alternate proposals with him, along with photographs of signage at other Lock Up locations.

Mr. David moved, and Mr. Wiskind seconded, to adjourn this matter until the December meeting. **Vote:** 3-0-0, as follows: Chair – aye, Mr. David – aye, Mr. Wiskind – aye.

4) **Continuation of 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

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

Present: Patricia Hoffman, Esq., Chair
Jacob Amir
Mort David
Michael Wiskind

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

The Chair stated that she had read the minutes from the October meeting, and that she had been present several years ago on a similar request for a variance.

Mr. Schlomann summarized the history of the present request for a variance. Mr. Schlomann stated that the subject property is a one-family dwelling on a 1.2 acre site in a one-acre zone; that the house has neither a basement nor a garage; that the proposal accommodates for those needed spaces by building a three-car garage with storage space over it; that the proposal also includes creating a driveway to get to the garage. Mr. Schlomann stated that the lot coverage of this proposal exceeds the maximum permitted. Mr. Schlomann mentioned that applicant went to the Planning Board, which was happy that the Zoning Board had included them in process, but was not sure which Board should have heard the matter first. Mr. Schlomann reported that the Planning Board stated that it did not have jurisdiction in this matter, but had comments, specifically that the FAR was not a big concern, but that the percentages on lot coverage were excessive.

Mr. Schlomann reported that after the Planning Board meeting, they came up with a few options to reduce site coverage and the FAR, which include eliminating the several sheds currently on the property, reducing lot coverage by cutting corners on walkway, and using pervious pavers or gravel to reduce the amount of impervious surface.

Mr. Schlomann laid out three options for reducing site coverage: (1) removing two sheds for 225 square feet, which would still be over the maximum permitted of 8,217 square feet by more than 5,000 square feet, for a 68% variance; (2) reducing the pavement where possible, for a 61% variance; and (3) paving only the steep part of the driveway and covering the level area with gravel, which would reduce the lot coverage considerably, for a 36% variance.

The Chair pointed out that the permitted site coverage is 6,871 square feet, and the maximum is 8,217 square feet, whereas the actual current lot coverage is 9,286 square feet, which is 1,050 square feet over at the outset. The Chair asked if the current site coverage was part of the variance from several years ago, and added her recollection that a variance was obtained but that construction did not occur. Mr. Schlomann stated that a similar variance was approved for a three-car garage in a different design but of similar nature with similar square footages, and Mr. Schlomann confirmed that the owners did not construct the garage after being granted the variance.

The Chair asked how the site coverage got to be 9,286 square feet if the maximum permitted is 8,217. Mr. Schlomann asked applicant if a variance had been granted for the current lot coverage. Ms. O'Neil-Roberts stated no, and added that they have not added to the house since they built it fifteen years ago.

Mr. Wiskind pointed out that, according to a letter from the Building Inspector, the maximum permitted is 8,407, based on a lot size of 54,103. Mr. Schlomann confirmed that he also has 54,103 for the lot size.

Mr. Schlomann produced a photograph of a neighboring property with a three-car garage, to show that the proposed addition would be in keeping with the character of neighborhood. The Chair asked if that neighbor had obtained a variance, and Mr. Schlomann said that he did not know. Mr. Schlomann stated that he brought photographs in response to requests from both the Zoning Board of Appeals and the Planning Board to see if a three-car garage is even appropriate for the neighborhood. Mr. Schlomann pointed out the differences in the amount of flat greenery on photographs of the subject property and neighboring properties. Mr. Acocella added that his neighbors have steep slopes and no backyard. The Chair pointed out that it is possible that a neighboring huge house with a three-car garage may have been built as of right.

Mr. David stated that Mr. Schlomann had described the area above the garage as storage, but pointed out that at the October meeting, it had been reported that there would be a bathroom there. Mr. David stated that this meant that the area would be heated, and that there would be a hot water heater somewhere within facility. Mr. David expressed his concern that the area above the garage not be a rental area. Mr. Schlomann stated that it is definitely not a rental area, it is not a living space. Mr. Schlomann reminded the

Zoning Board that the bathroom above the garage would be used by Mr. Acocella to clean up after his work as a stone mason before entering the house.

Mr. Schlomann reported that there had been another change to the proposal. Mr. Schlomann stated that the original proposal called for a large two-story structure with full height walls, and that in the new version, the roof line has been lowered with just a dormer in the center, so that a lot of the square footage on either side of the dormer is not usable space. Mr. Schlomann stated that notwithstanding this change, the proposed bathroom is still something that is desired and required.

Mr. David asked why the roof on the garage is bumped back. Mr. Schlomann explained that this was to provide both daylight and usable square footage, which would not be possible if you brought the roof line all the way down.

David asked where the interior staircase is located. Mr. Schlomann described that the plan provides a three-car garage with storage, which transitions into the mud room, which in turn transitions into the existing kitchen, and showed where the stairs would be. Mr. Schlomann added that, with the reduction of the roof line, there would be two parts above that would be dormered above to provide head room, and that the remaining second-story area would no longer be usable. Mr. Schlomann also stated that, though not yet done, the bathroom would probably have to shift over a bit because of where the roof line is coming done.

Mr. Schlomann also stated that because the excess lot coverage creates the requirement, the proposal now includes an underground storm water reception area, with culverts and dry wells to account for the additional square footage.

Mr. Wiskind asked why there is a balcony. Mr. Schlomann stated that it is for aesthetic purposes.

The Chair asked about the purpose of a balcony with doors out. The Chair noted that the proposal looks exactly the way it did when it was initially proposed, at which time there was a high suspicion that there would be people living there. Mr. Schlomann pointed out that there is no kitchen there, but suggested that the owners could better answer that concern. Mr. Acocella stated that the house is big enough for the two of us for us not to be living there. Mr. Schlomann explained that the Board's concern was about a tenant. Mr. Acocella stated that there definitely will not be a tenant living there. Ms. O'Neil-Roberts stated that they have no storage. Mr. Acocella stated that they have no basement. Ms. O'Neil-Roberts specified that they have no place to put suitcases, Christmas decorations, or an old piece of furniture.

The Chair asked if they were making any changes to the house itself. Mr. Schlomann stated that the house itself is staying as it is. The Chair asked if they were lifting any roofs or adding any rooms. Mr. Schlomann replied that they were doing none of that.

The Chair asked how many rooms are in the house now. Ms. O'Neil-Roberts stated that there are 13 rooms in the house. Ms. O'Neil-Roberts added that the reason for the balcony is purely aesthetic, as she finds it beautiful. Mr. Schlomann pointed out that if a variance is granted by the Zoning Board of Appeals, they would still have to go to the Architectural Review Board, which would want to see some detail. Ms. O'Neil-Roberts reiterated that the space above the garage is just for storage. She added that she is a cook and a baker, and that she has no place for her pots and other equipment.

The Chair stated that the problem is that the house is 13 rooms. Ms. O'Neil-Roberts stated that the house was never supposed to be that big, that it was supposed to be 4,000 square feet, but the architect never measured. The Chair asked if in those 13 rooms there is not a storage room. Ms. O'Neil-Roberts replied that the house was poorly designed, and that there is a closet in every bedroom, but no closet in the front hallway and only two coat closets in the whole house.

Mr. Amir asked how those 13 rooms are being used. Ms. O'Neil-Roberts stated that they are being used as bedrooms, because her children come home. Mr. Amir asked how many bedrooms there are in the house. Ms. O'Neil-Roberts replied that there are five bedrooms, and added that her mother lived in the downstairs suite until a year ago, and that Mr. Acocella's parents might come live in that suite at some time. Mr. Acocella added that applicant's house is tiny compared to their neighbors, one of which is three stories with a basement.

Mr. Amir asked if the items they need to store are presently kept in the sheds. Mr. Acocella stated that some things are in the sheds, some things he brings to his father, and some things he brings to his office.

Mr. Schlomann stated that the current proposal is for two variances, one for site coverage and one for square footage. Mr. Schlomann stated that as to the square footage, the proposal brings the property to 2.8% over on FAR. Mr. Schlomann noted that two feet here or there could easily be removed, which would reduce the FAR sufficiently as to not need a variance for the FAR of the storage room. Mr. Schlomann asked if function is a factor in the Zoning Board of Appeal's decision. Mr. Schlomann explained that the current proposal is for 8,078 square feet, which is about two hundred square feet over the maximum permitted, and which is a 2.8 percent variance. Mr. Schlomann stated that he believes this amount is insignificant, but admitted that if needed, the FAR could probably be brought down so to obviate the need for a variance on FAR.

Mr. Schlomann then spoke to the site coverage variance and stated his belief that (a) the proposal is in keeping with the character of the neighborhood; (b) that the proposal does not do anything to the environment, and that the proposal accounts for all the storm water, maintaining it on site, not letting it run off into the neighbor's property or into the street; (c) that there is a school next door, and a big baseball field, so visually the proposal does not negatively impact neighbors; (d) that alternatives such as a detached garage were considered, but that would create additional lot coverage because one would have to get to the garage and, as the location of the driveway is unchanged, so outside factors justify the location of the garage; and (e) that the need is not self-created, as there is no basement, although in this day, garage and storage space is pretty much in every house of every size.

Mr. David asked if the second-story is justified for storage, might there be a more efficient way to accomplish that that did not entail going up a flight of steps and coming down to the main house. Mr. Schlomann responded by asking if, hypothetically, applicants wanted a three-car garage with no storage above it, would that be approved, because the variance for lot coverage would be exactly the same.

The Chair stated that she cannot get past how, if the maximum permitted lot coverage is 8,217 square feet (or 8,407 square feet), the existing now is 9,286 square feet, which is already 1,000 square feet over the maximum permitted without an explanation. The Chair stated that applicant wants a variance to go up beyond that, while the Chair is still trying to ascertain how applicant got to the existing square footage. Mr. Schlomann stated that he did not know if there had been a variance. Ms. O'Neil-Roberts reported that there had been no variance for the house, which she had built fifteen years ago.

Ms. O'Neil-Roberts added that they had been given approval to build the house that you see and for a detached three-car garage. Ms. O'Neil-Roberts stated that she was approved seven years ago, but that the Zoning Board of Appeals wanted her to have an attached, rather than detached, garage, because of concern that she would put someone upstairs for living. Ms. O'Neil-Roberts went on to state that they redid the plan, were approved for a three-car garage with storage above it, and then ran out of money. Ms. O'Neil-Roberts continued that when they decided to build the garage, they looked at the plans and realized that the garage was set back and would have been on top of the patio, which is why they repositioned the garage aesthetically, and placed it in a natural way going up from the driveway.

Ms. O'Neil-Roberts stated that she has been in front of this Board before, that when she moved here she was approved for a three-car garage with storage upstairs, and that seven years ago, she was approved for a three-car garage with storage upstairs. Ms. O'Neil-Roberts stated that she realizes that it seems like a lot, and that she cannot account for the extra square footage. Ms. O'Neil-Roberts said that the Board members were welcome to come to the house and look, that all the rooms that were in the original plans are still

there, and that there has been no renovation to the inside of the house. Ms. O'Neil-Roberts said that they need to put in a garage and that they need some storage. Ms. O'Neil-Roberts added that real estate brokers have told them that they will never be able to sell the house without a basement.

Ms. O'Neil-Roberts stated that if Board members come to the house, they will see, especially with the lowered roof line, that the proposed addition blends right in, even with the terrace, so that it does not look like a big monstrosity. Ms. O'Neil-Roberts stated that Board members would see that the owners' four cars would be in the garage instead of being outside looking like a parking lot.

Ms. O'Neil-Roberts added that, in answer to the question about the convenience of storing things upstairs, it is inconvenient, but if she had a basement, she would be storing things downstairs instead of upstairs, so the inconvenience would be the same.

The Chair asked about the possibility of converting one of the five bedrooms into storage. Ms. O'Neil-Roberts stated that the bedrooms are not that big, as this house was originally a renovation of a cape, and that it had been a small cape with small rooms, and noted that the bulk of the square footage of the house is in the kitchen and the family room. Ms. O'Neil-Roberts added that she did not want to put industrial stuff in the middle of the house.

Ms. O'Neil-Roberts stated that the Zoning Board of Appeals had granted a variance when she bought and built the house, and then again six years ago. The Chair stated that the Zoning Board of Appeals had granted a variance for 10,082 square feet, a variance of approximately 1800 square feet was requested, which was an almost 25% variance, for which a special permit would be required.

Mr. Schlomann interjected that the proposal is now at 11,002 square feet with a gravel driveway. The Chair stated that the proposal is now at 13,878 square feet, which is not the original request but a modified request, and that the original request was for 14,600 square feet, which was a 38% variance. Mr. Schlomann stated that the 14,600 square foot proposal is no longer in question. Mr. Schlomann stated that at the last meeting he was tasked with seeing how he could reduce the lot coverage, and that one of the viable alternatives is at 11,222 square feet, meaning that they were able to reduce the lot coverage by 3,400 square feet, and still create a viable solution to the functionality of the property. Ms. O'Neil-Roberts added that the sheds may have been taken off during the earlier proposal too.

The Chair asked how many sheds are on the property. Ms. O'Neil-Roberts stated that there are five sheds on the property. The Chair noted that the last time applicant was before the Board, there were four sheds and owners were going to take two of them down. Ms. O'Neil-Roberts stated that she has no problem taking them down, that she

hates the sheds. The Chair pointed out that applicant did not take them down. Ms. O'Neil-Roberts replied that they have not built anything yet and that they are still using them for storage.

The Chair reported having had a conversation with Robert Pellegrino, Chair of the Planning Board, after applicants had been to that Board. The Chair stated that Mr. Pellegrino reported that there were conversations about the huge request. Mr. Schlomann acknowledged that Mr. Pellegrino was one of the people who had tasked him to see how to reduce the lot coverage, and now we are 3,400 square feet less.

Ms. O'Neil-Roberts asked why the square footage of the variance matters so much if aesthetically it is not going to bother anyone. Ms. O'Neil-Roberts contended that no one will care if you give me a variance for 1,000 square feet or for 2,000 square feet, and Ardsley will get more taxes. Ms. O'Neil-Roberts stated that she just wants to understand why the square footage of the variance matters.

The Chair explained that it matters because there is a zoning code for the Village of Ardsley that all the residents of the Village are required to live by, and which is there to protect the value of all the homes, so one cannot say "if it looks nice, it shouldn't matter to anyone." Ms. O'Neil-Roberts stated that she cannot see how her home would impact that. The Chair emphasized that it is not just applicant's home, but every home in Ardsley, and the percentage is still the percentage.

Ms. O'Neil-Roberts asked about the house on the corner of Farm Road and Heatherdell, which she maintains is covering a much higher percentage of their lot than she is proposing for her lot. The Chair stated that that corner house has not been before the Zoning Board of Appeals for a variance. Mr. Amir added that they did not have sufficient information to compare the two properties.

Mr. Schlomann stated that the original request was to build a three-car garage with a full second story and to have a paved driveway. Mr. Schlomann acknowledged that he had not accounted for removing sheds in the square footage of that request.

Mr. Schlomann then described three ways to reduce the request. One option is to build it back, not with a full second story, but to come down with a lower roof line so that there is not the full square footage up there, just enough for storage. Mr. Amir asked if the site coverage was the same. Mr. Wiskind asked if what changes is only the perceived bulk. Mr. Schlomann stated that this version reduces the FAR by six or eight hundred square feet.

Another option Mr. Schlomann described also removes the sheds. Mr. Schlomann stated that in this option, some of the pavement would also be removed, so that instead of a full walkway, there might be individual pavers and/or cut the corners, which would reduce

the square footage a bit, so that it does not exceed what it needs to be to come from the driveway to the house.

In the third option Mr. Schlomann described, in addition to the reductions of the first two options, only the lower, steeper portion of the driveway would be paved for snow and safety, which would reduce the lot coverage substantially.

Mr. Amir asked how much shed space is being removed. Mr. Schlomann stated that he had calculated the numbers as between two and three hundred square feet for three sheds. Mr. Acocella stated that they would like to keep one shed. Mr. Wiskind noted that the first option states that it is 225 square feet for two sheds. Mr. Amir asked how much storage space is in the proposed storage space on the second floor. Mr. Schlomann stated that the proposed storage space on the second floor would have been the footprint of 1,500, but with the lowered roof line thinks the number will be nine hundred square feet. Mr. Amir asked if that was the same square footage on the other two options. Mr. Schlomann admitted that this does not change the footprint. Mr. Amir concludes that this results in a net gain of seven hundred square feet of usable storage space.

Mr. Schlomann asked if there is an acceptable variance percentage that is granted. Mr. Amir stated that there is no threshold number.

Mr. Schlomann stated that under the last option, perhaps with a bit more tweaking, he hopes to (a) get the FAR low enough that it does not require a variance, and (b) minimize the site coverage. Mr. Schlomann stated that he understands this zoning law to be in place both for appearance and character, and to be environmentally sensitive, and for that reason, the new proposal includes a fully engineered subsurface storm water plan to account for all of it.

Mr. Amir stated that he is sympathetic to applicant's concerns for storage and functionality, but that he also agrees with the Chair's concerns about how did we get to where we are in terms of the maximum permitted. Mr. Amir stated that because the foundational number is in controversy, he has a problem increasing it. Mr. Amir pointed out that the existing land coverage of 9,286 square feet exceeds the maximum permitted, but applicant is saying that it was approved.

Ms. O'Neil-Roberts asked if that number was just the house. Mr. Schlomann told her that that number includes everything on the site, including the pool and the patio by pool. Mr. Schlomann wondered if the water portion of the pool should or should not be included in the impervious surface. Ms. O'Neil-Roberts stated that she might know how to account for the excess, which is the blue stone patio they added about three years ago. Ms. O'Neil-Roberts stated that the blue stone is not permanent as it is not set in concrete but in "stone dust," and the canvas awning over the patio also is not permanent as it can be removed. Mr. Schlomann stated that he was not clear in recollecting a conversation

with the Building Inspector about whether the water in the pool was to be counted as impervious surface.

Mr. Wiskind stated that there may have been a change in requirements since the last application, and that there could be discrepancies in the square footage due to small things such as putting up a shed, which, unless brought to the attention of the village, would not have caught the Building Inspector's eye. Ms. O'Neil-Roberts added that the sheds are not on slabs.

Mr. Amir stated that it is difficult to reconcile the numbers, pointing out that 11,222 represents a 21 percent increase over the existing square footage but a 36 percent increase over the maximum permitted. Mr. Schlomann stated that he doesn't know if 9,286 is a legal non-conforming number, and that he does not want to request a variance that he should not be requesting.

The Chair stated that the garage previously approved was much smaller. Mr. Acocella stated that the previous garage was much bigger because it had a connection to the house. Mr. Schlomann asked Mr. Acocella if the entire driveway was to have been paved in the earlier application.

Mr. Wiskind stated that the basic permitted lot coverage is 6,871 square feet, and the maximum permitted is 8,217 square feet. What was proposed in 2009 was 10,082 square feet, which is more than 1,000 square feet less than the current third option. Mr. Schlomann stated that perhaps the requested square footage could approach that if the driveway were all gravel and all the sheds were removed except the one near the pool for pool equipment.

The Chair stated that the 2009 variance had been for a two-car garage. Ms. O'Neil-Roberts and Mr. Acocella both stated that it had always been a three-car garage. The Chair produced the 2009 variance for a two-car garage with storage area.

Mr. Acocella asked if any member of the Board had been out to see the property. Mr. Acocella stated that he does not think that they are asking for a lot. The Chair replied that owners are asking for a huge variance. Mr. Acocella stated that what they seek is not huge compared to everyone on the block. The Chair explained that if a house is built as of right, it means that no variance is required. The Chair suggested that the house across the street may have a steep slope and may have three acres in the back, so it might be a bigger house on what appears to be less usable land, but may be on more acreage. Mr. Acocella said that we are asking you to please give us a variance, knowing the conditions under which we are living.

Ms. O'Neil-Roberts stated that the first detached garage was a three-car garage, and she believes that she has a stamp on the plans that said three-car garage.

Mr. David asked if they are empty nesters, and Ms. O'Neil-Roberts replied that they are. Mr. David asked why two drivers need a three-car garage. Ms. O'Neil-Roberts stated that her children leave her cars at her house, and Mr. Acocella has a work van.

Mr. Schlomann asked the Chair if, when she said it was "a huger number," she was referring to the 36 percent. Mr. Amir stated that in 2008, the percentage increase that was granted was a 21% percent increase over the maximum allowable, from 8,217 square feet to 10,017 square feet, for an increase of 1,800 square feet. Mr. Amir pointed out that the percentage increase now proposed in the third option is a 36 percent increase. Mr. Amir stated that it is peculiar that the numbers 21 percent and 36 percent keep showing up, and that makes him wonder where we are getting these numbers from.

Mr. Wiskind added that the numbers have been an issue with this application all along. The Chair added that the square footage permitted is 6,879, and that one can go to 8,217 square feet by special permit, and that applicant is already beyond the maximum permitted. The Chair stated that it is the applicant's responsibility to bring accurate numbers to the Board so that we know what we're approving, and told applicant that she needs to find out where the 9,286 square feet comes from.

Ms. O'Neil-Roberts stated that they just did a survey within last year. Mr. Acocella stated that the survey is accurate right now. The Chair stated that they then you need to find out what is different from the survey. Mr. Acocella and Ms. O'Neil-Roberts said that it must be the patio in the back.

Mr. Wiskind stated that if that patio qualifies as not impervious, then applicant needs to measure it and calculate the ratios. Mr. Acocella asked what was considered not impervious, and would that be anything in stone dust. Mr. Wiskind replied that it is not what the Zoning Board considers not impervious, but how the Code defines it. Mr. Acocella stated that there are a few areas that are in stone dust. Mr. Schlomann said that he would go to the property, delineate what sheds are coming down and their exact dimensions, and learn what surfaces might not count as impervious.

Mr. Amir asked Mr. Schlomann if he had a recent survey with him, and Mr. Schlomann replied that he did not, but that the site plan was based off the survey.

Mr. Wiskind stated that there are several questions about specific items on the property, the size of the sheds, the size of the area in back of the pool, these different layouts. Mr. Wiskind concluded that the Board needs to see the calculations done extra carefully, and to have clarified whether the maximum permitted square footage is 8,407 or 8,217.

Mr. Acocella asked why we can't work with what is there now. Mr. Wiskind explained that the Board is trying to determine what overage this request would entail. Mr. Acocella asked if the Board wants to go back in history to see what has changed. The

Chair stated that the Board needs to know why, if the maximum square footage permitted is 8,217 or 8,407, applicant has 9,286. Mr. Acocella stated that they added a few patios in stone dust. The Chair stated that if those patios should not be included, then the number is not 9,286. Mr. Amir and the Chair explained that removing what should not be included narrows the percentage increase sought, and lessens the variance requested. Mr. Wiskind pointed out that this assumes that the Board is correct in stating that they are not impervious, and added that small pervious things other places on the property would also make applicant's case stronger.

Mr. Acocella reported that when he had had a problem with their water line, he found that there is only about two feet of dirt above rock that goes all along the whole property, and that is why there is no basement.

Mr. David commented that the Board does not issue variances if they are not justified, and that the Board is required by law to use a test in making the determination, but the Board cannot know what to make a judgment on because the numbers keep changing.

The Chair informed the applicant that it is applicant's burden to go back and research what is there now and what used to be there, and to explain why these numbers are different. The Chair emphasized that one may not ask the Board to give you a variance for "as built" where we do not know how big that will be, and from these numbers, we cannot know what the result will be.

Mr. Acocella stated that he would ask Mr. Tomasso about stone dust. Mr. Schlomann stated that they need to measure every little stone on the property. The Chair recommended that they look at the files and see if there were other applications for stone dust, if the patio where the canvas comes off the top was included, whether there is a permit for it, whether a permit was required for it, because if you put on a patio and it is not included in the square footage where it should be, you must add that in. Ms. O'Neil-Roberts stated that she believes that when they got the approval the last time, they could keep the awning because it comes off, but that they wanted the blue stone off, so we would have to leave that in grass. Mr. Schlomann said they would go back and see if there are items that can be taken off. Ms. O'Neil-Roberts stated that they will take off what we must, because it is more important to have a garage than to have a shed or a patio in the back.

Mr. Wiskind stated that the goal is to have projects that do not require a variance, but that that does not mean that a variance is not possible, if it can be documented that there is no better way to accomplish the goals. Mr. Wiskind continued that, by the same token, the Board would like the variance to be as small as possible. Ms. O'Neil-Roberts said that she understood that if the numbers are wrong, the Board does not know what it is working with. Ms. O'Neil-Roberts added that they did need a variance or a special

permit when they built the house, which was supposed to be only 4,000 square feet, but the architect never measured.

The Chair asked if applicants would like to come back on December 21st or if they needed more time. Mr. Schlomann assured the Chair that it would be more than enough time.

Mr. Wiskind moved, and Mr. David seconded, to adjourn this matter to the December meeting. **Vote:** 4-0-0, as follows: Chair – aye, Mr. Amir – aye, Mr. David – aye, Mr. Wiskind – 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 9:22 PM.

Respectfully submitted,
Judith Calder
Recording Secretary