

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING
WEDNESDAY, JULY 26, 2017**

PRESENT: Patricia Hoffman, Esq., Chair
Jacob Amir, Esq.
Mort David
Maureen Gorman-Phelan
Michael Wiskind

1) **Call to Order**

The Chair called the regular meeting to order at 8:01 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, August 23, 2017 at 8:00 pm.

Approval of Minutes

The approval of Minutes of the March and May meetings was adjourned. Recording Secretary is to email the Proposed Minutes of these meetings to the Chair and Board Members of the Zoning Board of Appeals, and the Chair will collect all votes on the Minutes by email.

3) **Public Hearing**

Application for Variance from Village Code Requirements

Joe A. Cardoso and Dina Figueiredo-Cardoso

12 McKinley Place, Ardsley, New York

Section 6.110, Block 101, Lot 10, in an R-3 One Family Residential District.

For a proposed second-story addition where the 11.8 feet existing and proposed North side yard width is less than the fifteen feet minimum required (Ardsley Village Code 200-26B)

Present: Patricia Hoffman, Esq., Chair
Jacob Amir, Esq.
Mort David
Maureen Gorman-Phelan
Michael Wiskind

Attendees: Joe A. Cardoso
Howard Albert, architect, 11 Taft Lane, Ardsley

The Chair read the Legal Notice.

Open Public Hearing

The Chair summarized that the application is to construct a second story addition on an existing one and a half story cape cod style frame house in an R-3 district. The frame house was built in 1938, and there have been no prior applications for appeal for the premises.

The Chair noted that the Legal Notice had a different local tax map section than appeared on the application. Mr. Wiskind pointed out that the Property Card matches the Legal Notice, and that the discrepancy is only on the application. Mr. Amir pointed out that the correct tax designation does match the Legal Notice, and that the application contains the old section lot and block. The Board concurred that Legal Notice has been properly effectuated, and the Chair advised Mr. Albert to correct the application.

Mr. Albert provided the seventeen green cards that had been returned out of the twenty-six sent, and Mr. Albert advised that he had received a letter from the neighbor next door.

Mr. David asked if the pictures submitted with the application were current, and Mr. Albert replied that they are.

Mr. Albert stated that on the North side of house, presently 3.2 feet of the back of the house is within the side setback, and that 1.6 feet of the front of the house is within the side setback. Mr. Albert explained that the lot is skewed to the street, and that the house was built parallel to the street, not to the lot.

Mr. Albert stated that applicants would like to put a second story on the cape style house and add a few bedrooms upstairs. Mr. Albert reported that the existing second floor is one large room, about twelve feet of which is already within the setback, which he surmised might be grandfathered in. Mr. Albert stated that, beyond that existing encroachment into the setback, the portion of the proposed second floor that would encroach on the setback would be approximately twenty-six square feet in the back and approximately fifteen square feet in the front. Mr. Albert reported that on first floor of the home now is a dining room, a kitchen, a living room and two bedrooms, and that applicants have three sons for whom they would like to provide more room.

Mr. Albert showed the front, South, rear, and North elevations. Mr. Albert pointed out the garage that is attached to, but not accessible to, the house.

Mr. Albert reported that applicants are looking at their proposed work in two phases. As part of the first phase, applicants propose taking down the walls in the back of the first floor and have the two rooms in the back become the family room and dining room. Mr. Albert added that eventually the kitchen will go in the back and the bathroom will flip to the front. Mr. Wiskind asked if moving the kitchen was part of the current application, and Mr. Albert replied that it is not, that he had provided the information as background. Mr. Albert reported that the current proposal also involves the second story, where they would add a family room which could later be converted into a bedroom, create a master bedroom, two other bedrooms, and a bathroom.

Mr. Albert summarized that the proposal is to extrude the house up, and showed the front (showing two bedrooms), South, rear and North proposed elevations.

Mr. Albert stated that there are other two-story houses in the neighborhood, photos of some of which are in the application, and stated that these two-story homes are seen on the aerial GIS map, including one on Taft and one on McKinley. Mr. Albert reported that all of these two-story houses were one-story capes that have been expanded.

Mr. Amir asked when the subject house was purchased, and Mr. Cardoso stated that it was bought in 2012.

Mr. David asked how the chimney will be handled. Mr. Albert replied that the chimney will be expanded up and painted white. Mr. David asked if the fireplace is functioning, and Mr. Albert replied that it is.

Mr. David asked if the shed in the rear will remain, and Mr. Albert replied that it will.

The Chair asked if anything is proposed with the garage, and Mr. Albert replied that nothing is currently proposed for the garage.

The Chair asked if the proposed second floor will have three bedrooms and a family room. Mr. Albert replied that the family room is proposed as a family room for now and that it may convert to become a bedroom at another time. Mr. Wiskind asked if applicants have three children, and Mr. Albert confirmed this.

The Chair asked if the downstairs family room will be converted to a kitchen, what will become of the kitchen area. Mr. Albert stated that when the kitchen moves to the back, the powder room and extended closet and mudroom, and maybe an office, will go where the kitchen now is.

The Chair asked what the egress and ingress from the North side is. Mr. Albert reported that it went down to the basement and into the kitchen. Mr. Albert further reported that the area around that egress serves as a barbeque area, but that eventually the paving will move to the back, and added that in phase two, the doors in the back will move away.

Mr. David stated that he viewed the house and noticed that it has leaders that go into the ground. Mr. David asked if there presently is a dry well, and if not, where does the water from the leader go. Mr. David asked how drainage will be handled. Mr. Albert stated that they plan to hook into the existing leader system. Mr. David asked if this goes into the ground. Mr. Cardoso reported that they do not have a drywell, and Mr. David expressed concern about the ground being able to absorb a significant amount of water.

Mr. Wiskind asked how the lot coverage is increasing. Mr. Albert advised that the lot coverage change is due to an overhang in the front which will project out. Mr. Wiskind commented that this is not a big change. Mr. Albert agreed that it is not, but added that it must be included in the lot coverage because it projects out to cover the front porch. Mr. David asked if the overhang is within code and is not imposing on the front setback. Mr. Albert replied that it does not protrude into the front setback. Ms. Gorman-Phelan pointed out that the application says that it is reducing by four feet. Mr. Albert replied that they propose taking the overhang out from 26.5 feet to 22.5 feet, which is still within code.

The Chair asked if currently the front of the house is 13.4 feet from the side yard, and Mr. Albert replied that this is correct. The Chair asked if in back it is 11.8 feet. Mr. Albert explained that this is because the lot is a parallelogram, and that the house was built square to the street, not to the lot, and Mr. Albert added that side yard setbacks have become larger since the house was built. Mr. Wiskind pointed out that the garage built in 1938, and that the house may have pre-dated the garage.

Ms. Gorman-Phelan asked how much of the proposed addition is in the setback. Mr. Albert showed the area of the second floor habitable space that is already in the setback, and showed the proposed 15.3 square feet and 26.5 square feet areas that would increase the impingement on the setback. The Chair stated that the Board will not address whether or

not the existing impingement is grandfathered in, but will focus on the proposal to extend the wall that is in the setback.

The Chair asked if any member of the public wished to speak in favor of or in opposition to the application, and no one present so wished.

Mr. Albert then read the letter from Michael and Karen Hanney, as follows:

Dear Ardsley Zoning Board, This letter is to inform you that we, the Hanney family, who reside at 14 McKinley Place, do not object to the home renovation proposed by the Cardoso family at 12 McKinley Place.

Mr. Cardoso reported that he had spoken to the Patel family who had given him a hand-written letter, and he stated that because it was hand-written, he had felt that he should not present it. Mr. Albert confirmed that there a green card had been received from the Patels.

The Chair asked if any Board member had any further questions.

Mr. Wiskind asked if there will still be a full staircase up to third floor. Mr. Albert replied that the third floor is attic space, which is easier to access with a real staircase. Mr. Wiskind asked if then the skylights will be for the bathroom, and not for the attic. Mr. Albert replied that this is so, that the attic will just be attic space. The Chair asked if there will be a pull down stair to the attic, and Mr. Albert replied that it would be a full staircase instead. The Chair asked what the clearance would be in the attic space. Mr. Albert estimated, based on the height of the joists and the ridge, that the clearance would be approximately six feet, Mr. David asked if this would be the clearance throughout the total attic. Mr. Albert replied that this clearance would be only in the area of the attic's peak.

Mr. Wiskind moved, and Mr. David seconded to close Public Hearing.

Vote: 5 in favor, none opposed, none abstaining, as follows:

Patricia Hoffman, Esq., Chair –	aye
Jacob Amir, Esq. –	aye
Mort David –	aye
Maureen Gorman-Phelan –	aye
Michael Wiskind –	aye

Close Public Hearing

Mr. Wiskind proposed, and Mr. David seconded, the following Resolution:

WHEREAS, Joe A. Cardoso and Dina Figueiredo-Cardoso, of 12 McKinley Place, Ardsley, New York, 10502, have applied to this Board for a variance from strict application of the requirements of Section 200-26 Subdivision B of the Zoning

Ordinance of the Village of Ardsley, which requires a minimum side yard setback of Fifteen Feet, so that the existing second story can be expanded to the wall of the first story, which protrudes from 1.6 to 3.2 feet into the setback; 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 McKinley Place, Ardsley, New York, and designated on local tax maps as Section 6.110, Block 101, Lot 10, in an R-3 One-Family Residential District; and

WHEREAS, a Public Hearing on this application was held by the Zoning Board of Appeals at the Municipal Building, 507 Ashford Avenue, Ardsley, New York, on July 26, 2017, after due notice by publication; and

WHEREAS, at the Hearing, applicant Joe A. Cardoso appeared, and architect Howard Albert appeared on behalf of applicant in support of this application, and Howard Albert read into the record a letter from neighbors Michael and Karen Hanney of 14 McKinley Place in support of the application, and no other member of the public appeared in support of or in opposition to this 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 the proposed addition will continue the second story along the same plane as the existing first story which protrudes into the side yard setback 1.6 feet in the front of the house and 3.2 feet in the back of the house, and neighboring properties are two story residences with similar side yard setbacks;*
- (2) the benefits sought by the applicants cannot be feasibly achieved other than by variances, as applicant needs to create additional bedrooms to meet the needs of the family's three children, and expanding the second story to the dimensions of the first story is the most efficient and least expensive way to accomplish this;*
- (3) the requested variance to add a second story extension is not substantial, as it adds approximately 41 square feet into the side yard setback by*

continuing upward the existing 1.6-foot encroachment into the side yard setback in the front of the house and the existing 3.2-foot encroachment into the side yard setback in the back of the house;

- (4) the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district in that the proposed addition will not change or add to the footprint of the house, and in that other two-story homes in the neighborhood also were converted from one-story cape style houses; and*
- (5) the circumstances requiring the variance were not self-created in that the house was built in its present location, parallel to the street but not parallel to the lot, prior to the zoning requirement of a fifteen-foot side yard setback.*

NOW THEREFORE, be it resolved that the application of Joe A. Cardoso and Dina Figueiredo-Cardoso is granted.

PROPOSED BY: Mr. Michael Wiskind

SECONDED BY: Mr. Mort David

VOTE: 5 in favor, none opposed, none abstaining, as follows:

Patricia Hoffman, Esq., Chair –	AYE
Jacob Amir, Esq. –	AYE
Mort David –	AYE
Maureen Gorman-Phelan –	AYE
Michael Wiskind –	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 8:31 PM.

Respectfully submitted,
Judith Calder
Recording Secretary