

**MINUTES  
VILLAGE of ARDSLEY  
ZONING BOARD of APPEALS  
REGULAR MEETING  
WEDNESDAY, APRIL 25, 2018**

**PRESENT:** Michael Wiskind, Chair  
Jacob Amir, Esq.  
Mort David  
Craig Weitz

1) **Call to Order**

The Chair called the regular meeting to order at 8:02 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, May 23, 2017 at 8:00 pm. The Chair noted that Mr. Del Grosso may be unable to attend.

**Approval of Minutes**

Mr. David moved, and Mr. Amir seconded, that the Minutes of the February meeting be approved.

**Vote:** 3 in favor, none opposed, 1 abstaining, as follows:

Michael Wiskind, Chair –	aye
Jacob Amir, Esq. –	aye
Mort David –	aye
Craig Weitz –	abstain

3) **Public Hearing**

**Application for Variance**

**Haydur Agha & Sara Cohen-Agha**

**3 Oak Hill Road, Ardsley, New York**

**Section 6.30, Block 13, Lot 2, in an R-3 One-Family Residential District**

**For proposed single story addition, with East side yard setback less than 15 feet (Village Code § 200-26B).**

**Present:** Michael Wiskind, Chair  
Jacob Amir, Esq.  
Mort David  
Craig Weitz

**Also Present:** Haydur Agha and Sara Cohen-Agha

The Chair read the Legal Notice.

**Open Public Hearing**

Ms. Cohen-Agha stated that 25 notices had been mailed. Mr. Agha stated that they arranged for electronic return receipt and had received sixteen delivery notifications. Applicants stated that they had discussed this means of receipt with Ms. Macedo.

Mr. Agha stated that they would like to move the front door closer to the front wall of the house where there is an existing roof structure over the area that they wish to enclose, and that the addition would be approximately ten and a half feet by three feet.

Mr. David asked to whom the fence on the right side of the house belongs. Mr. Agha stated that the fence is on applicants' property. Mr. David if the fence is on the property line. Mr. Agha stated that, according to measurements, it is eight inches within applicants' property on the North side. The Chair noted that the portion of land between the fence and the retaining wall seemed to be the neighbors' property. Mr. Agha stated that, according to the survey, the property line is approximately eight inches to the right of fence, though fence is de facto property line. Mr. David pointed out that the shrubbery is also a barrier. Mr. Agha stated that they will try to remove as little of the shrubbery as possible, and Ms. Cohen-Agha pointed out that the neighbor sometimes grows mint, so there usually is not much shrubbery there.

Mr. David asked how accurate applicants' survey is. Mr. Agha stated that it was the original survey, that he sent it to Mr. Tomasso, who advised that it was fine to use. Mr. David pointed out that the area between the fence and the property line does not seem as narrow as indicated. Mr. Agha stated that he believes that the neighbors had previously levelled their yard and built a retaining wall, but that the prior owner of applicants' home did not want the retaining wall right up to the property line, and that the neighbors therefore located the retaining wall closer

to the neighbors' home, so that although it appears that all of the area between the fence and the retaining wall is on applicants' property, not all of it is, although the neighbors do not seem to consider the lower area [between the retaining wall and the property line] to be theirs. The Chair asked who takes care of that part of the property. Mr. Agha replied that applicants do some weeding there, and Ms. Cohen-Agha added that they and their neighbors hire the same gardening service, so there is no problem.

Ms. Cohen-Agha stated that they are not [aside from the proposed addition] changing the footprint of the house.

Mr. Amir asked the purpose of the proposed addition. Applicants stated that the front door opens right into the living room, that with two children they feel the need of a mudroom. Applicants advised that the proposed addition will contain a hallway and closet in a three-foot eight-inch wide entry where there is now a slate landing covered by a roof.

Mr. Amir asked if they are raising the slope of the roof, and Ms. Cohen-Agha stated that they are not changing the roof at all. Mr. Agha pointed out that all the ranches on Western Drive have a roof-covered area protruding from the front door, that half of these homes have enclosed this area, and that applicants wish to do something similar. Mr. Amir asked if applicants considered using other space in the house for entryway or storage, and if it would be feasible to expand elsewhere so as not to increase the non-conformity. Mr. Agha stated that to achieve their goals anywhere else would increase the footprint of the house. Ms. Cohen-Agha added that it would defeat the purpose of a mudroom if it were not where you entered the house. Mr. Agha added that the roof area in question was built without support, and Ms. Cohen-Agha added that when they repaired the roof when they purchased the home, the roofers reinforced that area, but advised applicants that the sagging will continue to happen.

Mr. Amir asked when applicants purchased the house, and Ms. Cohen-Agha stated 2013.

Mr. David asked if the home has a back door. Applicants stated that the back door is to the basement from the patio. Mr. David asked if the current front door is the only door to the house from street level, and Ms. Cohen-Agha replied that it was.

Mr. Amir asked applicants if they had discussed this proposal with any of their neighbors. Ms. Cohen-Agha stated that some neighbors asked if they should come to the Zoning Board of Appeals meeting to indicate their consent, and that she had advised them that she did not think it necessary.

Mr. Amir asked if applicants intended to make changes to any of the utilities, and Mr. Agha stated that neither the electrical nor cable will be moved.

Mr. David asked if the four-inch perforated footing drain is a French Drain. Mr. Agha stated that they have a French Drain around the garage and side of the house that goes into a drywell

in back. Mr. David asked if applicants will be using the existing one, and Mr. Agha replied that he thinks that the current one is below ground and that it will be used.

Mr. Amir moved, and Mr. David seconded, to close the Public Hearing.

Vote: 4 in favor, none opposed, none abstaining, as follows:

Michael Wiskind, Chair -	Aye
Jacob Amir -	Aye
Mort David -	Aye
Craig Weitz -	Aye

### **Close Public Hearing**

Mr. Amir proposed, and Mr. Weitz seconded, the following Resolution:

WHEREAS, Haydur Agha and Sara Cohen-Agha, of 30 Western Drive, 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, for permission to construct a proposed single-story addition to the legal non-conforming one-family dwelling; 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 30 Western Drive, Ardsley, New York, and designated on local tax maps as Section 6.80, Block 56, Lot 41, 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 April 25, 2018, after due notice by publication; and

WHEREAS, at the Hearing, applicants Haydur Agha and Sara Cohen-Agha appeared in support of this application, and no one appeared in opposition to this application, and all those who desired to be heard were heard and their testimony recorded; 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 side yard width on the North side of the premises is 5.23 feet to the existing non-conforming building and will remain 5.23

feet to the proposed single story addition and will increase the non-conformity only between the existing roof and walkway, and as neighboring homes have the same or similar layout and have constructed similar additions;

- (2) the benefit sought by the applicant cannot be feasibly achieved other than by a variance, as the benefit sought is to create a mudroom which should be placed next to an entry and no other part of the house can feasibly be used for that purpose;
- (3) the requested variance is not substantial, as the proposed addition will be constructed entirely underneath the existing non-conforming roof which will remain and which protrudes from the current entrance to the home, and thus the proposed addition will extend the existing non-conformity only below the existing roof line, and as the proposed addition is approximately fifty square feet, it is a nominal increase in floor area relative to the size of the house and the property;
- (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 the proposed addition will be constructed entirely beneath an existing roof and replaces part of the existing impervious walkway so that the proposed addition will not increase the impervious surface, and in that the proposed addition requires no material alterations to the electrical, heating or plumbing systems, and in that the proposed addition is similar to what has been done to neighboring properties so that the house will blend in with its neighbors; and
- (5) the circumstance requiring the variance was not self-created in that this house, similar to other houses in the neighborhood, encroaches into the required setback that was added to the Village Code after the house was built, and in that the house was purchased in its current configuration.

NOW THEREFORE, be it resolved that the application of Haydur Agha and Sara Cohen-Agha is granted.

PROPOSED BY: Mr. Jacob Amir

SECONDED BY: Mr. Craig Weitz

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

4) **Adjournment**

As there was no other business before the Zoning Board of Appeals, the meeting was adjourned.

Respectfully submitted,  
Judith Calder  
Recording Secretary