

**MINUTES  
VILLAGE of ARDSLEY  
ZONING BOARD of APPEALS  
REGULAR MEETING  
WEDNESDAY, AUGUST 22, 2018**

**PRESENT:** Michael Wiskind, Chair  
Mort David  
Serge Del Grosso  
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, September 26, 2018 at 8:00 pm.

**Approval of Minutes**

Mr. David moved, and Mr. Weitz seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of April 25, 2018.

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

|                          |         |
|--------------------------|---------|
| Michael Wiskind, Chair - | Aye     |
| Mort David -             | Aye     |
| Serge Del Grosso -       | Abstain |
| Craig Weitz -            | Aye     |

Mr. Weitz moved, and Mr. David seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of May 23, 2018.

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

|                          |     |
|--------------------------|-----|
| Michael Wiskind, Chair - | Aye |
| Mort David -             | Aye |
| Serge Del Grosso -       | Aye |
| Craig Weitz -            | Aye |

3) **Public Hearing**

**Application for Variance**

**Tracy & Colm Bennett**

**8 Concord Road, Ardsley, New York**

**Section 6.20, Block 3, Lot 58, in an R-3 One-Family Residential District**

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

**Present:** Michael Wiskind, Chair  
Mort David  
Serge Del Grosso  
Craig Weitz

**Also Present:** Tracy and Colm Bennett  
Howard Albert, architect

The Chair read the Legal Notice.

**Open Public Hearing**

Mr. Albert produced the eleven green cards that had been received and stated that thirteen notices that had been mailed. Mr. Albert advised that one of the thirteen notices had been mailed to a double lot, and one to Concord Road Elementary School.

The Chair requested a summary of the variance request. Mr. Albert stated that the proposal is for an addition to the rear of the house. Mr. Albert added that in the front of the house there will be a portico, and that on the South side there is an existing non-conforming addition. Mr. Albert also stated that the part of the proposed addition that protrudes into the side yard setback is approximately 87 square feet, and that the proposed new deck will not protrude into the side yard setback.

Mr. David asked for clarification of what the 87 square feet was, and Mr. Albert explained that the 87 feet is the portion of the addition which would require a variance.

Mr. Albert continued that the house backs up to the Concord Road Elementary School. Mr. Albert referred to a map that had been provided with the application materials, and showed the house to subject's South, 6 Concord Road, and the house to subject's North, 10 Concord Road. Mr. Albert pointed out that the house to the North is larger than the subject house and that it extends back further than applicants' existing home. Mr. David asked if that neighboring house was within the twenty-foot (rear yard) setback, and Mr. Albert replied that it was.

Mr. Albert showed the Board the survey, the site plan, the existing front, South side, rear and North side elevations. Mr. Albert also showed the view across the rear yard toward the two-story house at 10 Concord Road, as well as photographs of the adjacent neighboring properties of 10 and 6 Concord Road and of the property across the road at 7 Concord Road.

Mr. Albert showed the Board diagrams of the existing unfinished basement and of the existing first floor with a large bedroom and two other bedrooms, a bath and a kitchen. Mr. Albert then showed the Board where in coming out in the back they propose having a master bedroom and a family room, and where the new deck would be. Mr. David asked if the proposed deck would replace the existing deck, and Mr. Albert replied that it would. Mr. Albert then showed the proposed front, South side, rear and North side elevations. Mr. Albert showed the existing line of the house and described how the kitchen and dining room would extend out. Mr. Albert explained that there would be a new family room and a new master bedroom with walk-in closet and new master bath. Mr. Albert added that one of the existing bedrooms would become a new open office, which could in the future have a wall added to create a closed-in office or an additional bedroom.

Mr. Albert stated that the proposal represents the only change to the house plan except for adding a foundation for a front porch. Mr. Albert stated that they propose to redo the front with a new front porch, and to add a little hall vestibule and coat closet outside of the existing doorway.

Mr. Albert showed the Board the new roof plan. Mr. Albert explained that they are not proposing to change the roof peak at all, because applicants will live in the house while the work is proceeding. Mr. Albert added that since they want to keep the existing roof and add to it, there will be an overlay in some areas and a new roof in other areas.

Mr. Albert showed the Board the proposed front elevation with a portico focused on the existing window in front. Mr. Albert showed the Board the proposed South side elevation showing both the new portico in the front and the new addition in the back with the new deck. Mr. Albert showed the Board the proposed rear elevation demonstrating the components of the new family room and the new master bedroom suite with the new deck on the side. Mr. Albert then explained that because of the need to match the existing roof peak, the proposed

addition has a roof split into two sections with a cricket in the middle to take the water down to a gutter and then to a leader. Mr. Albert showed the Board the proposed North side elevation, the side facing 10 Concord Road, which he stated is the closest house to the subject property. Mr. Albert then produced a letter from the homeowners at 10 Concord Road, which he read into the record as follows:

*Dear Zoning Board members,*

*I am the neighbor living at 10 Concord Road, the house directly to the North of the proposed addition. I have reviewed the design for the proposed addition. I am in favor of the design and recommend that the Board approve the design as submitted.*

*Costache and Olimpia Gheorghiu*

Mr. David asked if the garage is used as a garage. Mr. Albert replied that the garage is used as a garage, but to store bicycles and such rather than a car.

Mr. David asked to where the water from the leader and gutter on the portico would drain. Mr. Albert replied that it would tie into the existing system, and that they would probably have to put a Cultech recharger in the front yard. Mr. David asked if they would need to do that in the rear as well, and Mr. Albert replied that they would certainly need to do it for the large rear addition.

Mr. David asked why the proposal is to extend the existing building line. Mr. Albert explained that the house is not parallel to the existing property line, and that the proposed addition is parallel to the existing house. Mr. Albert stated that the front of the house is 12.1 feet to the property line and that the rear of the house is 11.4 feet to the property line, which means that the rear of the house gets closer to the property line as it goes back, so that although the proposed addition is a continuation of the side of the house, it becomes 11-1/2 inches closer to the property line.

The Chair added that the Building Inspector had stated his belief that the lack of parallelism between the side of the house and the side property line is caused by the house being aligned to the front property line instead of the side property line, and that the front property line curves slightly.

Mr. David noted that it is an oversized lot. Mr. Albert acknowledged that there is room in the back and stated that they did not want to go too far back because the land begins to slope down toward the Concord Road Elementary School.

Mr. Weitz asked if the new deck would utilize the existing concrete walkway from the house out to the deck. Mr. Albert stated that it would. Mr. Albert added that the proposed new deck does not encroach into the side yard setback.

The Chair pointed out that the proposed portico in the front is within the area where an addition would be permitted as of right.

Mr. Albert noted that many homes in Ardsley are over the side yard setbacks, as the setback requirements have increased over the years.

Mr. Del Grosso asked if the new roof would not be higher than the existing roof. Mr. Albert replied that it would not be higher and explained that matching the roof height of the addition to the existing roof height was what required the roof of the addition to have two gables with a cricket in the center. Mr. Albert noted that the roof is quite a bit lower than the maximum height permitted of thirty feet. Mr. Albert added that the proposed addition changes the building height a little bit because although the ridge remains the same, the calculation of the building height changes because calculating it from the back of the proposed addition increases the building height because the land slopes downward toward the back. Mr. Del Grosso asked if the proposed addition made the building one foot higher. The Chair pointed out that from the front the roof does not appear higher.

The Chair stated that he does not like the idea of increasing a non-conformity, but that in this case to extend to the rear without maintaining the line of the side of the house would be worse. Mr. Del Grosso stated that to extend without maintaining the side line would not make any sense. The Chair added that extending along the side line would not cause the house to look any different from the front.

Mr. David asked when the property was last surveyed. Mr. Albert replied that the property markers were set on June 13, 2018, and that the survey came out on May 22, 2018. Mr. David asked if there were any errors, noting that the property card can be inaccurate.

Mr. Weitz asked about the gravel parking space. Mr. Albert replied that the gravel parking space belonged to 10 Concord Road, not the subject property.

Mr. David asked why applicant preferred to extend out instead of up. Mr. Bennett stated that the Bennetts need to live in the house while the work is being done and stated that reconfiguring the kitchen would require extending to the back in any event.

The Chair asked if applicants would go to the Board of Architectural Review, and Mr. Albert replied that they are scheduled to appear there on September 4, 2018.

Mr. Weitz asked if there would be any change to the exterior appearance, such as in siding. Mr. Albert replied that applicants will try to update everything, but that this will depend on the prices quoted, but that regardless the intent is to unify the house with the same finish.

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

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

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

|                          |     |
|--------------------------|-----|
| Michael Wiskind, Chair - | Aye |
| Mort David -             | Aye |
| Serge Del Grosso -       | Aye |
| Craig Weitz -            | Aye |

### **Close Public Hearing**

The Chair proposed, and Mr. Del Grosso seconded, the following Resolution:

WHEREAS, Tracy and Colm Bennett, of 8 Concord Road, 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; 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 8 Concord Road, Ardsley, New York, and designated on local tax maps as Section 6.20, Block 3, Lot 58, 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 August 22, 2018, after due notice by publication; and

WHEREAS, at the Hearing, applicants Tracy and Colm Bennett appeared in support of this application, and applicants' architect Howard Albert appeared in support of this application, and a letter in support of this application from neighbors Costache and Olimpia Gheorghiu of 10 Concord Road was provided and read into the record, and no one appeared in opposition to this application; and

WHEREAS, this Board, after carefully considering all testimony and the application, notes that the part of the proposed addition that is in the front of the home does not require a variance as the proposed portico is well within the front yard setback requirements, and as to the part of the proposed addition that extends the house toward the rear and follows the line of the existing non-conforming side wall's encroachment into the side yard setback 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 this home, like many homes built prior to the fifteen foot side yard setback ordinance, already protrudes into the setback and the proposed addition extends the protrusion into the setback along the same line, and as the neighbors nearest the proposed addition are in support of applicants' request for a variance, and as the proposed addition extends the existing non-conformity toward the back it will not be visible from the street;
- (2) the benefits sought by the applicant cannot be feasibly achieved other than by variances, as applicants desire a larger kitchen and a family room and there is no other area where this can practically be achieved, and as extending the house toward the rear could not feasibly be achieved without maintaining the line of the existing non-conforming side wall that protrudes into the side yard setback, and as the homeowners must live in the house during expansion, maintaining the current roof prohibits expansion upward which in any event would also follow the existing side wall and thus would also require a variance, such that the needed and space can be achieved best and at least cost by extending the house in the proposed manner;
- (3) the requested variance is not substantial as the existing house is 11.4 feet from the property line and the proposed addition will be 10.5 feet from the property line at its closest point due to the front property line being curved and the house being parallel to the front property line and not the side property line, and the total encroachment into the side yard setback of the proposed addition will be eighty-seven square feet, and it is not substantial relative to the layout of the entire property which is an oversized lot, and it is not substantial in that the location of the proposed addition is where it will least impact its neighbors;
- (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 many homes of similar vintage protrude into the side yard setback as the code requirements changed after this and other similarly situated homes were built, and as the roof line is well below the maximum height permitted and will not change, and in that any increase in impervious surface will be addressed with appropriate storm water pollution prevention measures, and in that the neighboring house extends back further than does the proposed addition; and
- (5) the circumstance requiring the variances was not self-created in that the house was built more than sixty years ago and was purchased by applicants in its current configuration.

NOW THEREFORE, be it resolved that the application of Tracy and Colm Bennett is granted.

PROPOSED BY: Mr. Michael Wiskind, Chair

SECONDED BY: Mr. Serge Del Grosso

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

|                          |     |
|--------------------------|-----|
| Michael Wiskind, Chair – | AYE |
| Mort David –             | AYE |
| Serge Del Grosso –       | AYE |
| Craig Weitz –            | AYE |

4) **Adjournment**

As there was no other business before the Zoning Board of Appeals, the meeting was adjourned at 8:22pm.

Respectfully submitted,  
Judith Calder  
Recording Secretary