

**MINUTES  
VILLAGE of ARDSLEY  
ZONING BOARD of APPEALS  
REGULAR MEETING  
WEDNESDAY, AUGUST 25, 2021**

**PRESENT:** Michael Wiskind, Chair  
Jacob Amir  
Dr. June Archer  
Mort David  
Serge Del Grosso

**1) Call to Order**

The Chair called the regular meeting to order at 8:06 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 22, 2021, at 8:00 pm.

**Approval of Minutes**

Mr. David moved, and Mr. Del Grosso seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of July 28, 2021, as amended.

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

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Dr. June Archer –	Aye
Mort David –	Aye
Serge Del Grosso -	Aye

3) **Public Hearing / Resolution**

**Application for Variance from Village Code Requirements**

**708 Yellow Jersey LLC (Mr. Lee Spiegel)**

**708 Saw Mill River Road, Ardsley, New York**

**Section 6.50, Block 18, Lot 19, in an AE Special Flood Hazard Area**

**For two-story addition, where the first-floor elevation is below base flood elevation (Code § 115-5).**

**Present:** Michael Wiskind, Chair  
Jacob Amir  
Dr. June Archer  
Mort David  
Serge Del Grosso

**[The Public Hearing was closed at the July meeting]**

Mr. Amir moved, and Dr. Archer seconded, that the Zoning Board grant the Variance requested and adopt the following Resolution.

WHEREAS, 708 Yellow Jersey LLC, 708 Saw Mill River Road, Ardsley NY 10502, has applied to this Board for a variance from Section 115-5 of the Zoning Ordinance of the Village of Ardsley for construction of a two-story addition to the premises where the first-floor elevation is below the base flood elevation; and

WHEREAS, this application is made under the authority of Sections 115-6 and 200-97, Subdivision B of the Zoning Ordinance of the Village of Ardsley, affecting the premises known as 708 Saw Mill River Road, Ardsley, New York and designated as Section 6.50, Block 18, Lot 19 within an AE Special Flood Hazard Area; 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, NY on July 28, 2021 after due notice by publication; and

WHEREAS, at the hearing no one appeared in opposition, 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, and 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 premises, like neighboring properties, are benefited by a flood wall constructed in the 1980s to relieve the likelihood of flooding to those properties situated on Saw Mill River Road;

2. the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue in its reasonable use and possession of the premises, as reflected in approved renovations to the premises in 2019 to reinforce the foundation thereof;
3. the requested variance is not substantial, in that the area is designated by the Federal Emergency Management Agency (FEMA) as a Special Flood Hazard Area, and the applicant was alerted by the New York State Department of Environmental Conservation (DEC) that FEMA had established a base flood elevation of 135 feet, and that the floor elevation of the premises was approximately 128 feet, or approximately 6.5 feet below base flood elevation, but that the risks of flooding to the premises are mitigated by the flood wall behind the premises, and by the fact that the premises does not have a basement;
4. the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood and therefore does not change the overall character of the commercial premises relative to neighboring properties, in that the base flood elevation of 135 feet for the subject property, established prior to the construction of the flood wall, was never updated to reflect the protection provided by the flood wall, which proved sufficient to prevent the subject property (and neighboring properties) from flooding during 2011's Hurricane Irene (classified as a 500-year storm), and in that the applicant plans to implement sufficient flood protection measures to preclude potential flooding into its premises;
5. the circumstances requiring the variances was not self-created in that the applicant was alerted by the New York State Department of Environmental Conservation only after the fact that flood requirements had become activated as to FEMA's prior establishment of a base flood elevation of 135 feet, but that the floor elevation of the premises was approximately 128 feet, or approximately 6.5 feet below base elevation;
6. the technical evaluations, factors and other applicable standards under Chapter 115, "Flood Damage Prevention," including Section 115-6-1 thereof, have been considered; and
7. the Zoning Board of Appeals has considered the written justification provided and determined that it meets the criteria established for a variance.

NOW THEREFORE, be it resolved that the application of 708 Yellow Jersey LLC is granted.

**PROPOSED BY:** Jacob E. Amir, Esq.

**SECONDED BY:** Dr. June Archer

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

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Dr. June Archer –	Aye
Mort David –	Aye
Serge Del Grosso -	Aye

**4) Continuation of Public Hearing**

**Application for Variances**

**Musa & Asma Eljamal**

**9 Cross Road, Ardsley, New York**

**Section 6.120, Block 103, Lot 10, in an R-3 One-Family Residential District**

**For Proposed Additions to Existing Driveway and One-Story Building, with**

**a Proposed Six Foot Five and a Half Inch North Side Yard Setback, where a Fifteen-**

**Foot Setback is the Minimum Required (Code § 200-26B); and with 12,829 square feet**

**of Proposed Gross Land Coverage, where 9,688 square feet is the Maximum Permitted Subject to Planning Board Special Permit Approval (Code § 200-83C).**

**Present:** Michael Wiskind, Chair  
Jacob Amir  
Dr. June Archer  
Mort David  
Serge Del Grosso

**Also Present:** Frederic Zonsius, architect  
Bryan Orser, applicant's representative

The Chair reminded everyone that this matter raises two issues, setback and land coverage. The Chair reminded everyone that this matter dates back to September 2020, and that there have been several continuations since then.<sup>1</sup> The Chair added that the latest set of plans,

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<sup>1</sup> The Zoning Board opened the Public Hearing on this matter at its September 23, 2020 meeting, at which meeting the Zoning Board requested comments from the Planning Board. This matter was on the agenda of the Planning Board meetings of October and November 2020 but was adjourned, and was also adjourned from the Zoning Board meetings of October and November 2020. The Planning Board considered the matter at its December 14, 2020 meeting and

dated July 13, 2021, were received before the last Zoning Board meeting of July 28, 2021, but that a scheduling issue had prevented the matter from going forward on that date.

Mr. Zonsius stated that his clients have lived here for, and Mr. Orser provided the time as forty years. Mr. Zonsius then stated there are three rules that he must comply with: land coverage, floor area and building coverage.

Mr. Zonsius stated that the land coverage allowed for this lot is 8,100 square feet,<sup>2</sup> and the existing land coverage is 11,740 square feet, *“so we are existing ‘non-compliant’.”* Mr. Zonsius showed a diagram of the property and surmised that the reason the land coverage is so much in excess of the maximum allowable is because the builder pushed the house back in the lot because the property is only 65-70 feet wide at its “neck.” Mr. Zonsius pointed out the land coverage as the grey area on the drawing and the blue area which combines the building coverage, and asserted that the driveway from the curb to the house is a major part of the coverage.<sup>3</sup> Mr. Zonsius stated that *“unless you did a skinny driveway, or actually no matter what, you’d be beyond the existing allowable lot coverage of 8,000 square feet regardless.”* Mr. Zonsius suggested that *“this symptomatic non-legal existing opposition is based upon how the house was originally sited and the configuration of the lot, so we have that to deal with going forward.”* Mr. Zonsius concluded that *“the major variance that we’re beyond is the land coverage, that’s one of the variances we’re talking about.”*

Mr. Zonsius stated that for their proposed land coverage, *“we don’t change the back pool, we don’t change the main house, we don’t change the driveway, there is an existing lake over here, and to make matters worse..., we have to take the area of the lake, which is 9,000 square feet, take 75% of that, deduct it so it further reduces our calculation for land coverage, because we’re at 43,000 [sf] without the lake, I mean including the lake if it were soil, but then when you throw the wetlands in, you end up with a 37,000 square foot net factor, which is what we’re dealing with, so we’re getting hit ... first with this weird lot, and we’re getting hit because we have wetlands and for some reason wetlands counts as a negative area, why I have no idea because water is flat, but it doesn’t matter, so we’re getting hit, so instead of a 44,000 square foot lot, I actually end up with a 37,000 square foot lot.”*

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advised the Zoning Board accordingly. Subsequently, this matter was on the agenda of the Zoning Board meetings of December 2020 and of January, March, April, May and July 2021 meetings, and was adjourned at each of these meetings.

<sup>2</sup> According to the Minutes of the Planning Board meeting of December 14, 2020, 6,900 square feet of land coverage is allowed as of right, and 8,100 square feet is the maximum allowable within the Planning Board’s discretion. Note that all the numbers need to be checked and corroborated, due to multiple discrepancies.

<sup>3</sup> Applicant made this assertion at the December 2020 Planning Board meeting, and the Planning Board stated that even without the 800 or 900 square feet of driveway, the land coverage is still very much beyond the maximum allowable, and noted that the applicant had reached this amount of land coverage after receiving a variance for a pool and then a subsequent variance for a patio.

Mr. Zonsius stated that the purpose of the proposal is that the house has no garage and that the applicant would like a garage, attached to the building so that when it snows or rains, he can walk from his car into the garage into the house. Mr. Zonsius asked Mr. Orser if he wanted to speak about that. Mr. Orser said that the Board members had previously asked if the Eljamals have handicapped parking permits, that Mrs. Eljamal had one for five or six years, and that Mr. Eljamal has gotten one recently. Mr. Orser continued that *“Mr. and Mrs. Eljamal are in their middle 70s, and that Mr. Eljamal has had open heart surgery, a liver transplant, a compromised immune system, and bad enough him leaving to go out to go somewhere, but having to get out in the rain, in the snow, and go into the house is just problematic for him.”* Mr. Zonsius concluded that Mr. Eljamal’s health is what necessitates the garage being attached to the building. Mr. Zonsius added that he has other schemes, as the Zoning Board had requested, all without detached buildings.

Mr. Zonsius compared the new proposal with the original two-car garage proposal, saying *“we reduced it to a one-car garage, much like they park in San Francisco where they pull in bumper to bumper, bumper to bumper, and we’ve moved it forward by about six feet from the façade of the building, so that this setback becomes now legal, but with this one little dog leg, we’ve still got this. Here’s the setback right there, and you can see ... that I’m still over five or six feet on this side, but I’m good on the fifteen feet on the return, so we pushed it forward and it wasn’t bad.”* Mr. Zonsius stated that the new proposal with a two-car bumper-to-bumper garage increases land coverage from the existing 11,740 square feet to 12,588 square feet, versus the allowable 8,100 square feet.<sup>4</sup>

Mr. Zonsius stated that the second area he looked at is floor area (FAR), and that he calculates that the maximum allowable FAR for this lot is 7,346 square feet. Mr. Zonsius stated that the proposed, with the garage, is 4,324 square feet, and contended that the fact that they are 40% less on the FAR suggests that the building is not overbuilt, but that, with the garage, is *“commensurate to the land that we’re covering.”*

Mr. Zonsius stated that his next calculations were on building coverage, that he calculates the maximum building coverage allowed as 12,295 square feet, and that the building coverage they propose, with the garage, is 4,324 square feet, which is almost 60% less. Mr. Zonsius stated that all these calculations are on page G-101 on the left hand side.

Mr. Zonsius showed the Chair where these different calculations were entered, and concluded that when he adds *“this piece on it, I’m back up to 12,598, and my allowable is 8,100, but then I go to my FAR and my building coverage are substantially lower than the allowable.”* The Chair replied that that is because a lot of your land coverage is from things that are not factored into those calculations. Mr. Zonsius agreed, and added *“but I always like FARs, because FARs is really a true value of mass of building to lot. When*

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<sup>4</sup> This proposal is a 241 square foot reduction from the original request for 12,829 square feet of land coverage.

*you go to some of these over-developed pieces of property, you have an immense building on a small piece of land because the footprint works but the FAR doesn't work."*

Mr. Zonsius pointed out that the current building, which is [on Page] A-100, *"shows this building, and we're putting the garage over here, which you'll see on the next sheet, and we're having access through this hallway which will become our laundry room."*

Mr. Zonsius pointed out that *"this is that 15 foot setback, so that's a second variance. As you can see, it comes in and we're over by six feet on the one-stall garage. And to make matters worse, the right side of the house, the left side to you, is also in non-compliance because it's over by six inches, this whole side is."*

Mr. Zonsius reiterated that *"we got here because the driveway is so much bigger to get to the back of the house, the back of the lot,"* and added that *"we're good on two out of three, and the overage of the land coverage is not due to the building, it's due to the driveway and other surface applications to it, which allows us to meet the FAR and the building coverage."* Mr. Zonsius suggested that this is *"very important, because if this was a massive building and a tiny driveway, it would be a different conversation, I would imagine, because I'm adding to the building. Everyone follow me so far? The point of this being over is not due to three-dimensional building mass, it's due to a single dimensional flatness on the grade, which is driveway and pool and water."* Mr. Zonsius suggested that if he were 4,000 square feet over on land coverage, and the building was the majority of that overage, the Board would be dismissive and conclude that the lot was overbuilt, but that *"since the grey area represents the blacktop and my hard core surface area which under the Code I have to include in my land coverage that is the major contributor to my non-compliance, when I ask for an additional 4000 square footage for the building, then I would think that the request is more reasonable because I'm not adding to the deterrence if you will."*

Mr. Amir asked how much of a change will it be if you take out some of the driveway. Mr. Zonsius replied, *"not much, but if you want foot to foot, I'd be happy to provide."* Mr. Amir suggested that they would still have the same problem, and Mr. Zonsius replied that they would still be 4,000 square feet over.

The Chair pointed out that part of the concern is that the land coverage requested is an increase from the current already excessive overage. Mr. Zonsius stated that that was correct, but that *"the excessiveness is 2-dimensional, and I'm adding a building mass, and my overage is not based on building mass, I mean I know they are taken together, but the overage is based upon the driveway, which is symptomatic of this silly lot, which he shouldn't have bought in the first place."*

Mr. David mentioned the referral some time ago to the Planning Board on the issue of land coverage. Mr. Zonsius suggested that *"evidently, Planning Board was first, and then it*

*has to pass to you, and then it goes back to the Planning Board.*” Mr. David stated that he is asking only about the decision of the Planning Board. Mr. Zonsius said, *“I think that’s coming, isn’t it.”* Mr. Orser said that they had asked us to make changes to the roof line. Mr. Zonsius asked if that was the Planning Board. Mr. Orser stated that he thinks it was, and asked why the Zoning Board would ask that. The Chair stated that the Zoning Board had requested it because there was an issue of asymmetry. Mr. Zonsius confirmed this and said that they had made those changes. The Chair followed up on Mr. David’s question and stated that the matter had been before the Planning Board in December. The Chair noted that the Planning Board, which is advisory at this point, definitely has concerns about the land coverage. It was pointed out that even if the Zoning Board were to grant a Variance, the matter would still have to go to the Planning Board for a Special Permit. Mr. Zonsius then asked the name of this Board.

Mr. Amir asked for the amount of the proposed increase in land coverage, and Mr. Zonsius stated that it *“is going from 11,740 to 12,500, like 800 square feet, it’s just under 12,500, so 760 square feet.”*<sup>5</sup> Mr. Amir asked what would have to be removed to achieve a square foot to square foot trade. Mr. Zonsius said that he would have to reduce blacktop, and there’s a circle here. Mr. Orser opined that you would not shave off the part that is going straight into the garage. Mr. Zonsius said “maybe,” and asked if he can use gravel. The Chair advised that even though gravel is pervious, the Building Inspector has previously pointed out that it still is defined as land coverage. Mr. Zonsius said “so if you drive on it, it’s impervious. Because they make those.” The Chair explained that it is pervious, but that it still counts as land coverage. Mr. Zonsius said “so it doesn’t help me,” and Mr. Amir agreed.

Mr. Amir stated that what he is seeing is that you’re proposing a driveway on the left side, so you wouldn’t shave off here, you’d shave off on the other side. Mr. Zonsius added that maybe he can take out the center. Dr. Archer remarked that the center is nice, but he does not think it is helping. Mr. Zonsius replied that it is the amount of square feet. Mr. Amir asked if shaving off on the right side of the driveway is any impediment to the Eljamals coming into their house, or does it do anything to the access. Mr. Orser stated that there is a walkway there too. Mr. Zonsius stated that there is a walkway here that gets you around the side, this is the lake, and gets you around to the back. Mr. Amir asked, just as an inquiry, if you could shave off the right side here and still have access. Mr. Amir asked if that would do anything to the roundabout for the vehicles to be able to go in and out. Mr. Zonsius said that it would get tighter. The Chair began to point out the circular feature, when Mr. Zonsius stated, *“there’s a donut, I could take the donut out and make it all grass, I could give you something like that.”* Mr. Amir asked if the center piece stayed and you shaved off the right side, would cars still be able to turn or would that become an issue. Mr. Zonsius said, *“I’d have to work it out, but we could take the donut out and turn it into grass, so then the hole, because you can’t turn the car more than a two-foot radius regardless.”* Mr. Amir admitted that it is only a thought, as he does not know if Mr.

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<sup>5</sup> The requested increase is now from 11,740 to 12,588, for an increase of 848 square feet.

Zonsius wants to presume that this is something the applicants would want to do. Mr. Zonsius stated that the applicants are looking for a task or a recommendation from the Zoning Board.

The Chair asked Mr. Zonsius if he was involved at the Planning Board meeting back in December. Mr. Zonsius stated that he has been the architect from the beginning. The Chair said he meant had Mr. Zonsius made it to that particular meeting. Mr. Zonsius stated that he had, and added, *“but I get confused as to who I’m talking to. This is a Planning Board meeting?”* The Chair reminded Mr. Zonsius that this is the Zoning Board. Mr. Zonsius joked, *“ZBA, Zoning Board of Approvals? ... So this is ZBA and then we have a Planning Board, which we already went to, and what’s the third one?”* The Chair replied that that was Architectural Review, but that he did not know if that Board would be involved in this matter. Mr. Zonsius asked, *“for engineering, which is run off and percolation, that’s called Planning?”* The Chair replied in the affirmative, and Mr. Zonsius said *“ok, because of course you have to meet those criteria.”*

Mr. David asked Mr. Zonsius if he was aware of the recommendation of the Planning Board. Mr. Zonsius asked if that was the Board that made him make the façade balanced. The Chair said that that had been the Zoning Board, and that he would say that the Zoning Board “suggested” instead of “made.” The Chair continued that the gist of Mr. David’s question is that at the Planning Board meeting of December 14, 2020, *“the Chair and Board unanimously expressed their inability to support land coverage of 1,000 square feet beyond the existing nearly 4,000 square feet above the maximum.”* Mr. Zonsius said, *“right.”* Mr. Orser stated that they have reduced it to 700. The Chair explained that the Planning Board still must be involved, and that they also said that *“the area around the property is extremely sensitive to flooding.”* Mr. Zonsius stated that he does not understand this, because there is a river in the back. Mr. Zonsius asked if it is sensitive because a river rises, and stated that this river goes twelve feet down. The Chair stated that he thought it important to inform Mr. Zonsius of what the Planning Board had said, because, even if it does not control what the Zoning Board does, applicants [may] need to return to the Planning Board, so ought to be made aware of the Planning Board’s remarks. Mr. Zonsius stated that *“this is the front of the property that has never had a flood on it for thirty-five years, the river in the back is twelve feet down, the water level. Now the property beyond, because his property clears the river, there’s a footbridge, there’s this property is a little bit lower that may have some flooding.”* Mr. Orser said that that is not applicants’ property. The Chair explained that that was exactly the point that the Planning Board had made, that the additional land coverage might increase the risk to other properties. Mr. Orser said *“that’s not our area. I don’t think a run-off would quantify to anything.”* Mr. Zonsius stated, *“there are other options, there’s drywells, percolation systems, that we use to slow down runoff. There’s lots of ways you can slow down runoff, it’s easy.”* The Chair stated that he would read one more paragraph of the Planning Board’s comments to the Zoning Board, again, not to state that the Zoning Board is bound by it, but to make you aware of it: *“The Chair summarized the unanimous opinion of the Board that the Planning Board*

*would not want the Zoning Board to grant applicant additional land coverage, and is not even confident that it could support a proposal that results in the existing amount of land coverage, and further would not like the Zoning Board to allow such a significant incursion into the side yard setback.”*

The Chair noted that applicants made the setback incursion less than it was before, and added that although the Zoning Board is not bound by what the Planning Board said, it must keep it in mind, to which Mr. Zonsius replied, *“of course, I’d want you to.”* The Chair continued, moving off the land coverage issue and onto the setback issue, that the architect had said earlier that he had some proposals for alternatives that would further reduce or even maybe eliminate the need for [a setback Variance]. Mr. Zonsius said, *“so let me first show you the setback in the beginning. When we redesigned it after our last meeting with you, I reduced the garage, I made it more narrow, so now we’re three feet off here and like five feet here, and in the middle. So you can see, this is the setback line. I moved it forward, so I’m ok there, and then it’s just this side yard here that I’m still over.”* Mr. Amir asked how much are you off [the setback] on your revised plan. Mr. Zonsius replied, *“so the garage right now, I have on the inside wall, three feet to the face of the car, the car is six-and-a-half- feet wide, and I have four feet on the other side.”* The Chair asked if he was reading it correctly as being ten feet nine inches. Mr. Zonsius said, *“exactly, it’s ten feet nine inches here and nine feet four inches there.”* The Chair asked if in the front of the house it is four feet three inches into the setback, and in the back it is five feet eight inches. Mr. Zonsius said, *I reduced the garage to the minimum of the opening of the door, and you have to close the door to get around the car, and I made it longer by pushing it this way ... I have two feet at the end of the car, two and a half feet in the middle, and this is facing to the wall. So this would allow a minimum of three and four and a six-and-a-half foot wide car to get into the house. So that’s how I end up with a garage width minimum.”*

Dr. Archer asked if they considered any drainage in the front part [of the garage], and added that if they are trying to protect him from the elements and if there is snow on the car when he drives in, where will that drain. Mr. Zonsius replied that that is an engineering issue, and that when he hires his engineers, he will let the engineers go at it. The Chair asked if the floor level of the garage is the same as the floor level of the house. Dr. Archer asked if there might be a pitch. Mr. Zonsius said that he would say that there should be a pitch, because you never want. Dr. Archer added *“it going in the house,”* and Mr. Zonsius said, *“no, one hundred percent.”* The Chair asked if this is what is in the package, and Mr. Zonsius replied that it is exactly. Dr. Archer said that he liked the idea of the garage. Mr. Zonsius said that he had done a job in San Francisco, a townhouse, and that that was the first time he had ever seen parking bumper to bumper.

Mr. Zonsius reviewed the alternate schemes. Mr. Zonsius stated that in *“alternate #1, the yellow line is my setback, so if I was going to do a two-car garage in the front of the lot, keeping my 4,000 square foot overage, I would end up like that, and in order to keep them*

*covered, I have a canopy coming around the building. So that was one idea, which the client rejected. Then, taking the same footprint, just detaching it like an amoeba from the main house, and putting it over here, and I guess you could build a walkway between the two.*” Mr. Amir pointed out that in that scenario you would lose the roundabout. Mr. Zonsius confirmed that you would lose the roundabout. Mr. Zonsius said, *“this is not architectural, but ... you can see how big this is in relation to the building...”* Mr. Orser stated that one should think about what it would look like from the street. Mr. Zonsius mentioned that he wants to show the Board pictures from the street. Mr. David asked if the street meant Ashford Avenue. Mr. Orser said that, no, the street means Cross Road. Mr. Zonsius stated that now it is a very nice view, and that his client feels that putting a building in front of his house, especially a garage, would be ugly and would devalue his house. Mr. Amir asked where they park now, and Mr. Zonsius replied that they park on the roundabout.

Mr. Zonsius continued discussing alternate schemes. Mr. Zonsius stated that he looked at *“putting it on the other side, but the other side has a fifteen-foot setback, so then I’ve got to move this, and I’ve still got that narrow walkway. This is not in your package, so I’ll give it to you. Then we tried another version of not being so literal, what if we put the two-car garage here and put a doorway into the family room, which leads to the kitchen, which is not a bad idea, but [for the] fifteen-foot setback..., that actually might be interesting. If you allowed the setback, then I could move this way [with the garage in front of house on right side of house in front of family room]. So really the only other option that works with no setback at all is, this setback is my line, take the same theory of moving the garage forward, move it far enough forward, you’re out of the setback, like I did with the one-stall, put a two-stall here [in front of the bedroom], attach it to a hallway that gets you into the house, but I would have to redesign the whole driveway and all that stuff.”* The Chair pointed out that that scheme does not increase the land coverage because it is only replacing the driveway, and Mr. Zonsius concurred. Mr. Amir asked if under the last scenario you get a two-car garage in front of, and asked what room it would be in front of. Mr. Zonsius said that it is a bedroom. Mr. Amir asked if putting a two-car garage there does not give rise to a land coverage issue or a setback issue. Mr. Zonsius stated that it would still be 4,000 square feet over. The Chair acknowledged that there would still be the 4,000 square feet, but it would not be increased except for a little bit for that curve. The Chair added that you would have a more user-friendly garage if they’re side-by-side instead of back-to-front. Mr. Zonsius concurred. Dr. Archer asked if you could take the roundabout and make it pavers, and Mr. Zonsius said that they could. The Chair pointed out that there is something in the middle. Mr. Orser stated that there is a fountain in the middle. Dr. Archer said that he always liked that fountain, and Mr. Zonsius said that it is Venus. The Chair asked if under that scenario you still get the laundry room, and Mr. Zonsius said that you did. Mr. Zonsius said that the scheme works, but you still end up with a building in front of a building. Mr. Del Grosso said that it does not increase the non-conformity [of the side yard setback], and Mr. Zonsius said that this was correct. Mr. Orser asked if now the bedroom would not have windows. Mr. Zonsius replied that you would only have the side

windows looking toward the front door. Mr. Orser asked if you would have a window looking at the front door, and Mr. Zonsius replied yes. Mr. Orser asked if this would be instead of looking out of the front of the house, and if there would just be one window in that corner. Mr. Zonsius said, *“if the Planning Board was worried about a little peak of a roof not being balanced six inches on this side and they made me redraft it, [Mr. Zonsius was corrected that he was referring to the Zoning Board], then I can’t wait til they see me putting a garage in front of the building.”* The Chair said that it is a big plus that it avoids the need for at least one of the variances from us. The Chair said that he understands that it is not your main consideration, but this garage [in the application, with two cars parked bumper to bumper] is not very usable. Mr. Zonsius acknowledged that it is not a great solution. The Chair opined that this [last scenario] seems much better because you can get more storage space and you can get either car in and out at any time. Mr. Amir asked how many bedrooms there are in the house, and Mr. Orser said that there are three. Mr. Amir asked if [under the last scenario] you would not be losing the master bedroom, and Mr. Zonsius said that you would not. Mr. Orser said that that is true, but that when you are looking at it, there is going to be a building out in front of the house. Mr. Zonsius added *“with two garage doors.”* Mr. Orser said *“with two garage doors and you’re not looking at the house.”* Mr. Del Grosso pointed out that many houses in Ardsley have garages in front of their buildings.

The Chair asked if Mr. Zonsius had had the chance to do an elevation. Mr. Zonsius stated that he had not, and that he just wanted to get the Board’s feeling of it and let his client mull over it before he did another fifteen sheets of drawings. Mr. Orser said *“so instead of people driving by looking at two-car garages, they’re looking at a single door that’s symmetrical with the front of the house with the single [bumper to bumper garage,”* and Mr. Zonsius said this was so. Mr. Zonsius showed the proposed elevation with the skinny garage and explained that in the latest scenario there would be a two bay garage and that this will come out. The Chair said that the two-bay garage will not be apparent from the front, only when you are at an angle. Dr. Archer said that he has seen many two-car garages in the front of a house.

The Chair explained that part of the Zoning Board’s mandate is to accomplish what the applicant wants with the least amount of, and ideally no, Variance needed, that what is most desirable is to not need to issue a Variance because the goal can be accomplished “as of right.” The Chair continued that, from the setback point of view at least, this [last scenario] accomplishes this, although he believes that a Variance would still be needed for the land coverage because you are already over. Mr. Amir asked if [the last scenario] is roughly the same increase [in land coverage] as with the [option in application]. Mr. Zonsius said, *“well, if you’re putting a building on top of an existing piece of blacktop, I guess no, I mean the coverage is still the same.”* The Chair pointed out that it is not exactly on top because the existing driveway does curve. Mr. Amir restated the question, saying that under the [revised plan, discussed first tonight], the increase in land coverage is 848 square feet, and what roughly would the increase be under the [last scenario] plan. Mr.

Zonsius said that it would be approximately 250 square feet, because a major part of the footprint of the garage would be going on top of the blacktop. Mr. Zonsius added that he has not redesigned the driveway, but that more or less, it can either be the same overage or less.

Mr. Orser asked if you are actually going to lose the circle of the driveway, and Mr. Zonsius said yes, and Mr. Amir stated that you are going to lose a portion of it. Mr. Amir added that the mandate of a variance is that if there is a reasonable alternative by which you can accomplish what you want without a Variance, then the Zoning Board is bound by law. The Chair asked if applicants' representatives have run this by the applicants. Mr. Orser said that no, this is the first time he is even seeing it himself right now, and he can only imagine. Mr. Zonsius explained that Mr. Eljamal did not want any buildings in front of his house. Mr. Orser agreed, saying that that was the whole idea. Mr. Zonsius stated that Mr. Eljamal had spent a lot of money for him to renovate, and we redid all the symmetry, we redid the roofs. Mr. Orser asked if that was like twelve years ago. Mr. Zonsius stated, *"yes, it was when his daughter was getting married. So we really worked hard to make this a beautiful façade. Now I got this thing in the front, he's going to have another heart attack."* Mr. Amir asked if you can lose the symmetry but match the façade, and Mr. Zonsius replied that that is what he will do. The Chair pointed out that there already are two peaks to the right of it and one peak to the left, so there is nothing symmetrical now. The Chair noted that on the left adjacent property, their garage is in front of the house too, and because it has an upper story, it sticks out even more. Dr. Archer said that he actually likes that thing in the middle when he drives by.

The Chair stated his inclination that he likes this [last] proposal, and that it certainly addresses the set-back issue entirely and gets that off the table, which is advisable. The Chair also believes that, subject to a confirmation of where the land coverage comes out, which he suspects will go up a little, that taking out the donut will not help with the land coverage. Mr. Zonsius replied that it would help. The Chair said that yes, taking it out and putting in grass would help, but that he recommends doing the calculations because if it does not make a difference of fifty square feet or something, he would rather not make the Eljamals do even more work. The Chair concluded that, subject to consensus from the rest of the Board, he would ask that the representatives run the latest scenario by your client, do the calculations for the land coverage with this scheme, and also have at least an elevation. Mr. Zonsius said, *"yeah, I can do all that, but if I have your unofficial endorsement, then I can leave this meeting, because I just keep generating hours, it's crazy, someone's got to stand up and give me a decision."* The Chair asked the other Board members for their thoughts.

Mr. David said that he is in agreement with what has been said, and that if there is only a minimal increase in land coverage, and that if it can be done with no increase, then there is no need for a variance. Mr. Orser said that there will be a variance. The Chair noted that a suggestion had been made to take out a little bit of the driveway on the other side. Mr.

Zonsius asked, *“you mean if I take out, if I have zero net gain, I don’t see you any more? Or I still have to see you because it’s protocol?”* Mr. Amir said because it is law, not protocol. The Chair said that he believes that they would still need a Variance for the land coverage, even though it’s not an increase, because it is still significantly over. The Chair added that he cannot speak for the rest of the board, but that he thinks that if there is no net increase, it is very straightforward.

Mr. Orser asked how the Eljamals would they get into the house, because he had not seen it. Dr. Archer replied that they would enter through the laundry room. Mr. Zonsius said that you could do a number of things, that you could make the garage doors here as well, on the side. Mr. Orser asked what the distance is from here to the inside. Mr. Zonsius said that this is a five-foot breezeway. Mr. Orser said that no, he is talking about this room that you would build. Mr. Zonsius said that he is going to build a laundry room. Mr. Orser asked what the width of the laundry room is. Mr. Zonsius said that it goes right to the setback, so it is approximately ten feet. Mr. Orser said that what he is trying to understand is how far the proposed garage is. Mr. Zonsius showed him the garage. Mr. Orser said that he was asking about the other one. Mr. Zonsius said that the other one is five feet on this end. Mr. Orser said that he wants to understand, if the walkway is ten feet wide but thirty feet long... Mr. Zonsius said that when we updated the drawings, this was eleven feet to the garage, so you are four feet over from the setback to the corner. Mr. Orser asked if you are going from thirteen feet and some change to ten feet, which is shorter in feet. Mr. Zonsius said that it is ten feet here too. Mr. Orser said that no, it is more, that you are going from thirteen feet five inches to ten feet to create a laundry room the same length as the garage that is going to be there, and Mr. Zonsius said that that was correct. Mr. Orser said that that is what they are asking for, but then you are going to add this big building in front of the building. Mr. Zonsius replied that that is the only way to give you your garage and keep it in compliance. Mr. Amir stated that the setback issue is avoided with the second plan. Mr. Orser said that he gets it. The Chair asked if Mr. Orser was trying to establish the distance to travel to get into the house. Mr. Orser said that no, he is just wondering if it is just the matter of the three feet. Mr. Amir stated that it is two things, that it is the setback issue though I am not sure what the dimensions are, and that you also improve on the land coverage issue. The Chair explained that you improve on the land coverage issue by building on top of the driveway. Mr. Amir stated that that is why it is doubly beneficial. The Chair pointed out that it is beneficial in two other ways too, that a two-car garage is much more usable than a one-car garage in terms of being able to get the second car out, and that you get the laundry room for the laundry and whatever storage and things go in there, which you would not have with the piggy-back garage. Mr. Zonsius said that that was correct, and added because [in the new scenario] there can be a door in the back too for pool storage. Mr. Amir pointed out that, though this is up to the client, you can enter horizontally [through overhead doors perpendicular to Cross Road] instead of vertically [through overhead doors parallel to Cross Road]. Mr. Zonsius stated that because the garage is square, if you get rid of the roundabout, you can turn around here. The Chair added that and you would be getting rid of the paving in front. Mr. Zonsius said that he

would get rid of this altogether. Mr. Orser said that [Mr. Zonsius] has already *“billed like sixty grand, and now we are going to go back to the drawing board again. Where does it stop? Show us this, show us leaves are red, show us the leaves are green, show us the leaves are brown, show us a branch on the floor.”*

Mr. Del Grosso said that in this scenario we are addressing the non-conformity issue, and Mr. Orser said that he gets it. Mr. Del Grosso pointed out that the design shows an option that allows you to avoid that non-conformity issue, and explained that the consensus of the Zoning Board is that we do not want to look at a plan that increases an already egregious non-conformity. The Chair added that it really adds to two non-conformities, the land coverage and the setback.

Dr. Archer said that what we were talking about was [Mr. Eljamal's] accessibility to get in and out of the house, and that if you have that garage [as originally proposed], and his car is not in the front, it is cumbersome to have to pull one car out, to go back in to get the other car out and then to put the other car back in, so we also are trying to lessen his inconvenience. Mr. Zonsius said *“as long as you, I can take back to the client that we have an informal endorsement, because they are agreeing, more or less, to allow me to increase the non-conformity of land coverage, which any scheme we do does, right, because the existing plan has nothing, so whatever I tack on to here, whatever I replace in blacktop with garage is one for one, that's correct, but I am going to get a net increase, so in your earlier statement, about adding to non-conformity, I am definitely adding to non-conformity, without a doubt.”* The Chair said that there is an existing non-conformity with regard to the side yard setback, and you are staying away from that and not making that any worse, and that is very straightforward, we deal with those all the time, even where people build up on an existing non-conformity, and this is even less than that, so it takes away the need for a setback variance entirely. Mr. Zonsius said that that is correct. The Chair stated that on the land coverage issue, you were over to start with, so anything you do, unless you can make 3,000 square feet disappear, you will still be over. Mr. Zonsius said that that was right. The Chair stated that if you can make it so that it does not increase the existing non-conformity, by taking away paving someplace else... and Mr. Zonsius interjected, *“no, I don't think I can lose 4,000 square feet.”* The Chair stated that he was not suggesting that, that he was saying that if you do not make the land coverage any bigger than it is now, then I think we would be very on board with that, and that if there needs to be an increase, we would generally be favorable to that, but we just want it to be as minimal as possible. Mr. Zonsius said, *“of course, you can't commit until you see the drawing, but I'm going to be over.”* The Chair reiterated his earlier statement. Mr. Amir added that an overage of two hundred square feet is a lot easier to swallow than one of eight hundred. The Chair stated that the Planning Board will be concerned about drainage, which you can address. Mr. Zonsius said, *“yes, that's just engineering. Engineering is very precise, and you can always find an engineering solution, I think.”*

Mr. David asked where guests would park. Mr. Zonsius said that they would have to park in the driveway, and that this might encumber the access to the garage. The Chair said that that is true for anybody with any driveway. Mr. Zonsius concurred, saying that you are moving cars around. Mr. David asked if guests would enter the house through the front door, and Mr. Zonsius replied that he has not changed the front door.

Mr. Zonsius asked Mr. Orser if he wanted to say something, because this is what the Zoning Board is moving towards. Mr. Orser said that he can bring it to the applicants, but that he does not know how happy they will be with putting a building in front of their house. The Chair reminded him that it will be in front of only part of the house. Mr. Orser said that when you are on the street looking at it, you will see that there is a building there and that it is not the front of the house. Mr. Orser appealed to Dr. Archer, saying *“you get what I’m saying, you go by all the time, you look at the fountain, you look at the front of the house, now all of a sudden, you’re going to say, wow, nice fountain that no one can get around, and by the way, there’s a building in front of the house.”*

Mr. Amir reminded applicants that, as they have been advised several times, they have to go before this Zoning Board and that then they have to go back to the Planning Board, so that applicants must satisfy both boards. Mr. Zonsius asked, *“what does the Planning Board plan, what do they do.”* Mr. Amir replied that in this situation, they [may] grant you a Special Permit, depending upon the increase in the land coverage, and that that would be their role as far as this application goes. Mr. Zonsius asked, *“so they don’t decide on this.”* Mr. Amir replied that the Zoning Board will decide on variances, and that the Planning Board has its own authority and its own prerogative. Mr. Amir explained, *“even if you satisfy this Board to issue a Variance, you still have to satisfy the Planning Board, so hypothetically speaking, if this Board were to give you a Variance for an increase in land coverage of close to 1,000 square feet, you still would have to convince the Planning Board, and based upon various statements, it is not certain, so that is what you can go back and tell your client.”*

Mr. Zonsius asked, *“but if I satisfy the Planning Board’s engineering requirements, and have an engineering conversation with them, can they deny this from the point of view of a variance.”* Mr. Amir stated that the Planning Board does not affect the variance. This Board decides whether to grant a Variance. Mr. Zonsius said, *“so I get a green light from you, I’m just arguing engineering, theoretically. But they can’t step in your lane.”* Mr. Amir replied, *“nor we theirs.”* Mr. Zonsius asked, *“can they simply say ‘we don’t like it,’ and that would be enough?”* Mr. Amir stated that rather than comment on what the Planning Board simply can or cannot do, he would point out that the Planning Board has their own particular jurisdiction and authority.

Dr. Archer asked if applicants’ representatives will be going to discuss this with the family, and Mr. Zonsius replied that they would. Dr. Archer offered his opinion that applicants’ representatives’ objective is to give applicants what they want within reason to make it

practical, and Mr. Zonsius concurred. Dr. Archer suggested that this seems like it will be more practical, that they will not have to play parking lot attendant moving cars, that they will get a mudroom, that he does not think it will be an eyesore as it is not really blocking the front, that the master bedroom is not going to be blocked, that it is not going to protrude that much, and that he is more concerned with the practicality of it, of it being functional for what they need. Dr. Archer suggested that it will depending upon how you pitch it.

Mr. David reminded the representatives that you have three different entities to satisfy, the Zoning Board, and the Planning Board, and your clients, so that is on your camp. Mr. Zonsius added *“you have the ZBA camp if you follow that scheme, they told you that they will not approve the side yard setback, which they told me last time as well.”* The Chair took exception, stating that the Planning Board had told the Zoning Board that they did not recommend granting a side yard variance. Mr. Zonsius reminded the Chair that when they last appeared before the Zoning Board, they had been asked to encroach less on the side yard, that the Board had said that it did not like increasing a non-conformity, and that they had been asked to make the garage narrower, and Mr. Orser concurred. The Chair said that applicants’ architect has come up with something that the Zoning Board is happy with and that accomplishes most of what your clients wants. The Chair stated that if the applicants are comfortable with this scheme, the Zoning Board definitely will want the calculations with exact amounts, and at least a front elevation drawing. Mr. Zonsius said that he will provide a full package because Mr. Tomasso will want him to do so.

This matter was adjourned.

## 5) **Adjournment**

Mr. Amir moved, and Mr. David seconded, that the Zoning Board of Appeals adjourn its meeting at 9:12 pm.

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

Michael Wiskind, Chair –	Aye
Jacob Amir –	Aye
Dr. June Archer –	Aye
Mort David –	Aye
Serge Del Grosso –	Aye

Respectfully submitted,  
Judith Calder,  
Recording Secretary