**MINUTES (CORRECTED)[[1]](#footnote-1)**

**VILLAGE of ARDSLEY**

**ZONING BOARD of APPEALS**

**REGULAR MEETING (VIA ZOOM)**

**WEDNESDAY, DECEMBER 23, 2020**

**PRESENT:** Michael Wiskind, Chair

 Jacob Amir, Esq.

 Dr. June Archer

 Serge Del Grosso

**ALSO PRESENT:** Larry Tomasso

1. **Call to Order**

The Chair called the regular meeting to order at 8:07 pm.

The Chair stated that the meeting was being held remotely via the web-based conferencing platform, Zoom, and that Larry Tomasso, Village Building Inspector, would be moderating and recording the meeting.

# Announcements and Approval of Minutes

**Announcements**

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, January 27, 2020 at 8:00 pm.

 **Approval of Minutes**

Mr. Amir moved, and Mr. Del Grosso seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of November 25, 2020, as amended.

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

Michael Wiskind, Chair – Aye

Jacob Amir – Aye

Dr. June Archer – Aye

Serge Del Grosso - Abstain

1. **Continuation of Public Hearing**

**Application for Variances from Village Code Requirements**

**Robert & Stephanie Goodman**

**131 Heatherdell Road, Ardsley, New York.**

**Section 6.60, Block 38, Lot 73, in an R-1 One Family Residential District.**

**For proposed in-ground swimming pool, with a 15.1 Foot West Side Yard Setback, where Thirty Feet is the Minimum Required (Code § 200-12B); and with 6,234 Square Feet Gross Land Coverage, where 5,752 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

Serge Del Grosso

 **Also Present:** Robert and Stephanie Goodman, applicants

Larry Tomasso, Building Inspector

The Chair stated that this was a continuation of a Public Hearing that began at the meeting of September 23, 2020, and that was continued at the October 28, 2020 meeting and at the November 25, 2020 meeting.

The Chair noted that the Board had received an updated plan dated December 2, 2020, and asked that applicants review how the proposal has changed. Mr. Goodman described the new plans with pool parallel to and ten feet from the existing sewer line, with the shallow end closer to the house. The Chair noted that the incorrectly drawn new sewer line that had been on some of the older versions of the plan had been removed from the most recent drawing. The Chair also noted that the architect added, as requested, a calculation of the degree to which the pool now encroaches on the setback, which is 17.3% of pool, for a total encroachment of 67 square feet. No members of the Board had further questions on the setback issue, which the Chair acknowledged applicants had substantially addressed by greatly reducing the encroachment into the setback.

The Chair pointed out that this leaves the issue of gross land coverage, and noted that the most recent discussion involved a change in the surface of part of the driveway. Mr. Goodman acknowledged that putting in permeable pavers or permeable asphalt had been suggested. Mr. Goodman stated that applicants’ preference would be not to change anything as they use “every square inch of the driveway,” but that if they had to do something, they would look at one of those permeable surfaces. The Chair remarked that the Planning Board, before whom applicants had appeared once or twice, was definitive that this issue was of concern. Mr. Goodman asked Mr. Tomasso if the Planning Board had said that it had become a Zoning Board issue. Mr. Tomasso stated that the Planning Board had said that they would defer to the Zoning Board, but that they did not feel comfortable recommending an increase. Mr. Tomasso stated that one of the things that had been mentioned at the Planning Board meeting was the possibility of replacing part of the driveway with a pervious surface instead of removing the driveway, so that applicants could still park on and use that portion of the driveway.

The Chair expressed his understanding that the types of permeable surface suggested would not impair the driveway’s use as a parking area, and that the more solid pavement could be used for play purposes. Mr. Goodman stated that Mr. Tomasso had directed him toward an area in village where there is permeable asphalt and he stated that it looked just like asphalt, but that he did not know how it would handle serving as a driveway. Mr. Tomasso stated that it is quite commonly used in driveways now, particularly in commercial situations as a means to handle run-off. Mr. Tomasso stated that it is less desirable in an area where you are going to constantly be turning the tires, because it is not as tightly packed as regular asphalt so it will wear down prematurely, but that you can park on it without a problem, you can pull onto it straight and it will hold up just fine, and kids can play on it as well.

The Chair noted that they had been discussing the area that on the plan is to the right of garage, the sort of island area. The Chair pointed out that the difference between the 6,234 square feet of gross land coverage requested by the applicants and the 5,752 square feet that was the maximum permitted within the Planning Board’s discretion is 482 square feet, that the driveway is 22 feet wide, so that the area of 22 x 22 would approximately address that difference.

The Chair noted that no members of the public were present on the Zoom to offer support for or opposition to the application.

Mr. Tomasso suggested that if the Zoning Board were considering a variance with a requirement for some permeable surface, he would recommend leaving the type of material open, so that the Goodmans can look into other products that they may find more suitable or most cost effective, and also to leave the area in driveway to be replaced unspecified, because different products may work better in another area of the driveway. Mr. Tomasso added that the Building Department could always inspect and verify the permeable surface before a Certificate of Occupancy is issued on the pool. The Board stated that this was a good suggestion that made sense.

Mr. Amir asked that we make the record clear as to the reduction of the encroachment into the setback. Mr. Tomasso stated that under the original plan, the 30-foot setback was narrowed to 14.67 feet, and that under the current plan, the setback is narrowed to 24 feet. The Chair stated that there also has been a reduction of the square footage of the encroachment. Mr. Tomasso stated that the original plan did not have that calculation, but he confirmed that it is now substantially less than it had been under the original plan.

Mr. Del Grosso asked if the statement “existing driveway to be retrofitted” on page 2 of the proposed site plan addresses the current discussion or if it was always part of the plan or if it requires remediation. Mr. Tomasso explained that before this application came before the Zoning Board, applicants went to the Planning Board, and that under the original plan submitted to the Planning Board, the proposal included removal of part of the driveway, so the original plan said “portion of existing driveway to be removed.” Mr. Tomasso continued that, after coming to the Zoning Board and then returning to the Planning Board for an increase in land coverage, the wording changed to “retrofitting,” which leaves open exactly how that would be done. The Chair pointed out that the current plan as shown does not reference a specific reduction in impervious surface. Mr. Tomasso explained that the amount would be up to the decision of the Zoning Board, and surmised that the architect did not put in a specific number in case the Zoning Board chose to grant a portion of the amount requested.

Mr. Amir asked what steps the Goodmans would need to take after a Zoning Board Resolution. Mr. Tomasso stated that the Goodmans would need to submit revised plans, that they would be able to continue construction on the pool, which they had begun before they realized the [sewer pipe] problem, that they would have to come up with a solution based on the Zoning Board decision and provide the Building Department a plan showing what type of pervious pavement or surface they will use on how much of the driveway, and that the Building Department could work with the Goodmans on that from now through construction, and that the Building Department would not permit the Goodmans to put the pool into use until all the conditions of the Zoning Board Resolution were in place.

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

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

Michael Wiskind, Chair – Aye

Jacob Amir – Aye

Dr. June Archer – Aye

Serge Del Grosso – Aye

Mr. Amir proposed, and Dr. Archer seconded, the following Resolution:

WHEREAS, Robert and Stephanie Goodman, of 131 Heatherdell Road, Ardsley, New York, 10502, have applied to this Board for a variance from strict application of the requirements of Section 200-12 Subdivision B of the Zoning Ordinance of the Village of Ardsley, which requires a minimum side yard setback of Thirty Feet, and for a variance from strict application of the requirements of Section 200-83 Subdivision C of the Zoning Ordinance of the Village of Ardsley, which permits a maximum gross land coverage of 5,752 Square Feet subject to Planning Board Special Permit approval, for permission to construct an in-ground swimming pool; 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 131 Heatherdell Road, Ardsley, New York, and designated on local tax maps as Section 6.60, Block 38, Lot 73, in an R-1 One-Family Residential District; and

WHEREAS, a Public Hearing on this application was held by the Zoning Board of Appeals via Zoom on September 23, 2020, after due notice by publication, which Public Hearing was continued via Zoom on October 28, 2020, on November 25, 2020, and on December 23, 2020; and

WHEREAS, at the Hearing, applicants Robert and Stephanie Goodman appeared in support of this application, and Mr. Sean Granat of 113 Hilltop, a next door neighbor, appeared via Zoom 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 variances are 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 variances, as the pool will be positioned to create an encroachment into the side yard setback of the smallest square footage possible while keeping the requisite distance from the sewer line, and as the pool will be fenced and screened and thus will not be visible to neighbors or from the street, and as the amount of impervious surface will be reduced from the existing 5,811 square feet to 5,752 square feet;

(2) the benefits sought by the applicant cannot be feasibly achieved other than by variances, as the existing sewer line precluded locating the pool entirely within the setback line, and relocating the sewer line would be both prohibitively expensive and impractical as it would have required a pump rather than gravity and thus would not be operational during power outages, and as an unusually large driveway is necessary due to the location of the house relative to the street;

(3) the requested variances are not substantial as, pursuant to the suggestion of the Zoning Board of Appeals, applicants repositioned the pool from the location originally proposed to minimize the intrusion into the side yard setback, such that now only 67.6 square feet (which is 17.3 percent of the 423 square foot pool) will intrude into the side yard setback, and where the pool will be twenty-four feet from the side property line at its closest point where the rear and side yard setbacks are generous for a property of this size, and as the increase in gross land coverage will be accompanied by a decrease in impervious surface;

(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 encroachment into the side yard setback represents a small percent of the size of the approximately half-acre property, and in that the total amount of impervious surface will be reduced; and

(5) the circumstances requiring the variances were not self-created in that the location of the sewer line and the size of the driveway needed to connect the house to the street are circumstances that predated applicants’ ownership of the property.

NOW THEREFORE, be it resolved that the application of Robert and Stephanie Goodman is granted, subject to applicants submitting revised plans for gross land coverage of no more than 6,234 square feet where a sufficient amount of existing impervious surface is replaced with permeable surface, such that the total of existing impervious surface remaining and additional impervious surface created by the pool and related equipment does not exceed 5,752 square feet, which is the amount of gross land coverage previously permitted by the Planning Board, and also subject to the Building Inspector overseeing the reduction of the required amount of existing impervious surface and its replacement with permeable surface in no greater an amount and ensuring satisfaction of these conditions prior to issuing a Certificate of Occupancy.

PROPOSED BY: Mr. Jacob Amir

SECONDED BY: Dr. June Archer

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

Michael Wiskind, Chair – AYE

Jacob Amir – AYE

June Archer – AYE

Serge Del Grosso – AYE

1. **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).**

This matter was adjourned.

1. **Adjournment**

There being no further business, the Zoning Board of Appeals adjourned the meeting at 8:32 pm.

Respectfully submitted,

Judith Calder,

Recording Secretary

1. Corrected only to reflect in item #3 the presence of Dr. June Archer and the absence of member Mort David. [↑](#footnote-ref-1)