

**MINUTES
VILLAGE of ARDSLEY
ZONING BOARD of APPEALS
REGULAR MEETING (VIA ZOOM)
WEDNESDAY, MAY 20, 2020**

PRESENT: Michael Wiskind, Chair
Jacob Amir
Serge Del Grosso
Craig Weitz

ALSO PRESENT: Larry Tomasso

1) Call to Order

The Chair called the regular meeting to order at 8:08 pm.

The Chair noted 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.

The Chair introduced himself and Board members Serge Del Grosso and Craig Weitz and the Board Recording Secretary. The Chair noted that the remaining two Board members might join the meeting later.¹

2) Announcements and Approval of Minutes

Announcements

The Chair announced that the next meeting of the Zoning Board of Appeals is scheduled for Wednesday, June 24, 2020 at 8:00 pm.

Approval of Minutes

Mr. Weitz moved, and Mr. Del Grosso seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of March 27, 2019, as amended.

¹ Mr. Amir did join the meeting during the third agenda item.

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

Michael Wiskind, Chair -	Aye
Serge Del Grosso –	Aye
Craig Weitz -	Aye

Mr. Del Grosso moved, and Mr. Weitz seconded, the approval of the Minutes of the Zoning Board of Appeals meeting of November 20, 2019, as amended.

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

Michael Wiskind, Chair -	Aye
Serge Del Grosso –	Aye
Craig Weitz -	Aye

3) Public Hearing

Application for Variance

Edward and Marsha Hager

27 Western Drive, Ardsley, New York

Section 6.80, Block 57, Lot 3 in an R-3 One-Family Residential District

For a variance from the Fifteen Foot Minimum Side Yard Width Requirement,

Where the Side Yard Width on the Southwest Side is 10.97 Feet to an Existing Deck and 7.97 Feet to a Proposed New Deck²

Application for Variance from Village Code Requirements (Village Code § 200-26B)

Present:	Michael Wiskind, Chair
	Jacob Amir
	Serge Del Grosso
	Craig Weitz

Also Present:	Edward and Marsha Hager, applicants
	Bob Eberts, Cross River Architects, LLC
	Vincent, Honey-Do Men, Contractor
	Larry Tomasso, Building Inspector

The Chair read the original Legal Notice of May 6, 2020.

Open Public Hearing

² Subsequent to the publication of the Legal Notice, applicants revised their variance request with a proposed replacement deck to the same 10.97 Feet of the existing legal non-conforming deck.

The Chair announced that applicants had mailed twenty-four notices. Mr. Hager advised that sixteen green cards had been received in response to those notices. The Chair and Mr. Tomasso asked applicants to mail the green cards received to the Village offices, to Mr. Tomasso's attention.

The Chair pointed out that subsequent to the Legal Notice being published, the proposal was amended. The Chair stated that the original proposal was for a replacement deck larger than the existing deck, and the application has since been revised to reflect a proposed new deck of the same size as the existing deck. The Chair explained that even though the new proposal is for a deck of the same size as the existing deck, a variance is still required, because the existing deck is a legal non-conforming deck.

Applicants' architect, Mr. Eberts displayed a site plan drawing of the amended plan, showing Western Drive, the existing house and the existing (and proposed) deck. Mr. Eberts described that the proposal is now to remove the existing deck and replace it with a deck that is five feet wide and thirty-four feet long, the same dimensions as the existing deck. Mr. Eberts added that there are two steps in the back of the deck that provide access from the deck to an existing patio. Mr. Eberts also showed photographs of the house from front, of the neighbor's house, of the trees existing between applicants' house and neighbor's, and of the house on the other (non-deck) side of applicants' house. Mr. Eberts showed that the deck is behind the trees between applicants' house and neighbor's house, and showed that when viewed from closer, one can see the deck railings through the trees a little bit. Mr. Eberts pointed out that the edge of the row of trees is approximately eight feet from the edge of the property, and noted that there are some closer trees screening the end of the deck as well. Mr. Eberts stated that they are not touching those existing trees.

Mr. Eberts contended that this replacement deck will not change the character of the neighborhood, as the deck has been there, they believe, since the house was built. Mr. Eberts also pointed out that there are two doors on the southwest side of the house that open to the existing deck, so he concludes that the deck had to always be there, else going through one of those doors would require stepping six feet down to yard, which would be an unsafe condition. Mr. Eberts suggested that the replacement deck will not be a detriment to the nearby properties, but will be an improvement, as the deck is not in good shape, is falling down and is potentially dangerous. Mr. Eberts opined that applicants' goal cannot be reasonably achieved in another fashion. Mr. Eberts urged that the variance sought is not a substantial request, as of the fifteen foot setback requirement, this proposed deck protrudes into the setback only five feet, which is only one third. Mr. Eberts reiterated that they believe that there was a deck there when the house was originally built, and that in any event, there was certainly a deck there when applicants purchased the property. Mr. Tomasso confirmed that the deck was there when the house was constructed, and that a variance for it had been granted at the time of construction.

Mrs. Hager stated that the deck is a hazard in its present condition, which makes them nervous when they have visitors. Mrs. Hager added that they want to replace it to provide safe access to their backyard.

Mr. Del Grosso asked if the deck will be not only of the same size as the existing deck, but on the same footprint. Mr. Eberts confirmed that there is no proposed change to the footprint of the deck. Mr. Weitz did not have any additional questions. Mr. Amir, who had joined the meeting during the discussion of this application, stated that he had driven by the property, had noted the relationship of the existing deck to the neighboring property, and therefore had no questions. The Chair noted that the replacement deck maintains an existing non-conformity that is not particularly obtrusive, considering the setting and the scale.

The Chair asked if any member of the public wished to speak in support of or in opposition to the application.

Vincent, of Honey-Do Men, stated that he was in attendance just in case the Board had questions about the physical construction and replacement of the deck.

The Chair stated that after the proposal was revised, the Board had received an email from next door neighbors John Cabezas and Rachel Zaffrann, of 25 Western Drive, who had objected to the original application. The Chair read that email into the record:

Mr. Tomasso and Ardsley Board of Zoning Appeals, We write regarding the requested variance for 27 Western Drive for the re-construction of a side-yard deck, which will have the same dimensions and footprint as the old side-yard deck. We are the property owners of 25 Western Drive, Ardsley, which is directly adjacent to the proposed, reconstructed deck. Given our understanding that the reconstructed side-yard deck will be the same size and the same footprint as the existing side-yard deck, we are not opposed to the requested variance. Thank you for your consideration, John Cabezas and Rachel Zaffrann

The Chair noted that there seemed to be no other members of the public who wanted to comment on the application.

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

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

Michael Wiskind, Chair -	Aye
Jacob Amir –	Aye
Serge Del Grosso –	Aye
Craig Weitz -	Aye

Close Public Hearing

The Chair proposed, and Mr. Amir seconded, the following Resolution.

WHEREAS, Edward and Marsha Hager, of 27 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 remove an existing side yard deck and replace it with another deck on the same footprint and of the same dimensions, which requires a variance from the Fifteen-Foot side yard width requirement as the side yard width from the Southwest side property line is 10.97 Feet to the existing deck and to the replacement deck; 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 27 Western Drive, Ardsley, New York, and designated on the tax maps of the Village of Ardsley as Section 6.80, Block 57, Lot 3, in an R-3 One-Family Residential District; and

WHEREAS, a Public Hearing on this application was held by the Ardsley Zoning Board of Appeals via Zoom on May 20, 2020, after due notice by publication; and

WHEREAS, at the Hearing, applicants Edward and Marsha Hager appeared in support of this application, and applicant's architect, Bob Eberts, of Cross River Architects, LLC, appeared in support of this application, and a letter of support from John Cabezas and Rachel Zaffrann, the neighbors most directly affected by this application, was read into the record, 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 proposed deck will replace an existing deck of the same dimensions in the same location;
- (2) the benefit sought by the applicant cannot be feasibly achieved other than by a variance, as there are two doors from the home that open onto the deck to provide access to the rear yard, and which, without the deck, would open to a substantial drop to the side yard;

- (3) the requested variance is not substantial, as it retains approximately Eleven Feet of the side yard and does not increase the existing non-conforming side yard width;
- (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 a deck of this size has existed in this location since the house was constructed in the 1970s; and
- (5) the circumstance requiring the variance was not self-created in that a deck of this dimension in this location existed since the house was first erected, and the house was purchased with the existing deck in its current configuration and location.

NOW THEREFORE, be it resolved that the application of Edward and Marsha Hager is granted.

PROPOSED BY: Mr. Michael Wiskind

SECONDED BY: Mr. Jacob Amir

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

Michael Wiskind, Chair –	AYE
Jacob Amir –	AYE
Serge Del Grosso –	AYE
Craig Weitz –	AYE

4) **Adjournment**

Mr. Weitz moved, and Mr. Del Grosso seconded, to adjourn the Zoning Board of Appeals meeting was adjourned at 8:30 pm.

Respectfully submitted,
Judith Calder,
Recording Secretary