

THE MINUTES OF THE REGULAR MEETING OF THE ZONING BOARD
OF APPEALS OF THE TOWN OF MAMARONECK, JANUARY 27, 2016
HELD IN CONFERENCE ROOM C, OF THE TOWN CENTER
740 WEST BOSTON ROAD, MAMARONECK, NEW YORK

Roll Call.

Present: Arthur Wexler, Chairman, Irene O'Neill, Jeffery King, Evans Simpson, Jonathan Sacks, Elizabeth Cooney, Alternate.

Also Present: Lisa Hochman, Counsel, Ernest Odierna, Town Board Liaison, John H. Landi, Building Inspector.

CALL TO ORDER

The meeting was called to order at 7:50 P.M.

APPLICATION NO. 1 CASE NO. 3008 Mr. and Mrs. Jonah Weintraub 4 Robins Nest
Public Hearing opened December 16, 2015 continued

No one appeared the matter was adjourned.

APPLICATION NO. 2 CASE NO. 3009 Ryan Webler 748 Forest Avenue
Public hearing opened December 16, 2015 continued

Ryan Webler, the owner, stated he bought the house 6 years ago and the patio was a tripping hazard. He further stated that he was given bad advice from his contractor and repaired and extended the patio without a permit. In July he received a "working without a permit" violation and he is before the Board trying to legalize the patio.

Mr. Webler further stated the rear yard is not spacious, and he wanted a safe place for his children to play. A dry well was installed after the construction of the patio.

The Board discussed the patio, thickness of the concrete, the 0 distance to the retaining wall and the amount of impervious area resulting.

Mr. Landi pointed out the PVC fence is partially on the applicant's property and in violation of the height code.

Mr. Sacks stated the pitch of the patio is toward the neighbor's property and not sure it is approvable as presented. Mr. Landi responded the building department would find any violations during inspections if the permit was ever issued.

Mr. Wexler stated that the applicant could move the patio away from the wall as the patio doesn't follow code and approving it could set precedence.

Mr. Wexler asked that the plan be modified moving the patio away from the property line.

The applicant asked for an adjournment.

APPLICATION NO. 3 CASE NO. 3012 Peter Gaito LEXUS 1435 Boston Post Road
Public Hearing opened December 16, 2015 continued.

Ms. Hochman stated she previously represented the applicant in another municipality and is recusing herself tonight. Ms. Hochman left the dais and sat in the audience.

Mr. Gaito stated he doesn't have an objection to representation of the Board by Ms. Hochman. The Board members were polled and agreed that they do not object to Ms. Hochman's representation in connection with this application. Ms. Hochman stated that she will adhere to the decision made by the Town Board.

Mr. Gaito, the applicants architect addressed the Board, stating that last month they presented a 14 foot sign which the Board opposed and are returning with a 10 foot sign and the elevation plan the Board requested.

The existing sign is 4 feet. LEXUS corporate put a mandate to change the sign. Mr. Wexler stated that municipalities do not have to accept the corporate mandate.

The Board discussed the proposed sign, existing signs and the fact that there was a previous agreement to not have lights facing the apartment building across the street when the Board allowed the third sign.

Mr. Wexler stated they are asking for 40% percent over Code, as our Code only allows 6 feet.

Mr. Wexler stated the three signs on the building and the cars on the property line "shout" LEXUS

Mr. King asked if there is possible alternate location for the sign.

Mr. Simpson stated the sign is out of keeping with the Post Road.

Mr. Landi stated a large sign will be in the canopy of the tree.

Mr. Wexler stated that the Architectural Review Board is against the sign.

Mr. Wexler stated the Board would like to see the sign shrunk.

Mr. Wexler stated that by Code only two signs are allowed on the building and the Board previously granted a third sign with the caveat that the signs could not be lit.

Mr. Evans stated he understands the branding issues, but believes there are ways to solve the issue without a variance.

The matter was adjourned.

APPLICATION NO. 4 CASE NO. 3013 Jesse Legon 1023 Palmer Avenue
Public Hearing

Motion: To open the public hearing

Action: Approved

Moved by Arthur Wexler, Chairman, **Seconded by** Irene O'Neill.

Mr. Legon stated he purchased the house in 2012 and the porch was screened in at that time, it has been there 30-40 years. The house was built in 1958.

Ms. Cooney stated that it is 11 inches short on the side.

Mr. Landi stated that his niece is the owner of the house and that the structure has been there for 30-40 years and withstood the elements.

Mr. Wexler clarified it is a screened and unheated porch.

The Board discussed the porch.

There were no public questions or comments.

Motion: To close the public hearing

Action: Approved

Moved by Arthur Wexler, Chairman, **Seconded by** Jonathan Sacks.

Motion: To approve the requested variance

Action: Approved, **Moved by** Jonathan Sacks, **seconded by** Irene O'Neill.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes 5).

Yes: Arthur Wexler, Chairman, Evans Simpson, Irene O'Neill, Jeffery King, Jonathan Sacks.

After review, on motion of Jonathan Sacks, seconded by Irene O'Neill the following resolution was proposed and ADOPTED unanimously (5-0).

Ayes: Arthur Wexler, Chairman, Evans Simpson, Irene O'Neill, Jeffery King, Jonathan Sacks.

Nays: None

WHEREAS, Jesse Legon, requested a variance to legalize a screened in porch located at 1023 Palmer Avenue and known on the Tax Assessment Map of the Town of Mamaroneck as Block 403, Lot 77; and

WHEREAS, the Building Director declined to issue such permit on the grounds that the plans submitted failed to comply with the Town of Mamaroneck Zoning Ordinance with particular reference to Sections 240-50 and 240-69; and

WHEREAS, the applicant submitted an application for a variance to this Board for reasons set forth in such application, the screened in porch as built has a 6.1 foot side yard where 8 feet is required for a side yard and further the porch increases the extent by which the building is nonconforming for a residence in an R- 2F Zone District; and

WHEREAS, the Board examined the Plans, inspected the site, reviewed the application and has heard all persons interested in this application after publication of a notice thereof and a public hearing thereon; and

WHEREAS, this is a Type II action having no significant impact on the environment pursuant to 6NYCRR§ 617 et, seq. and, accordingly, no further action under SEQRA is required; and

WHEREAS, the Zoning Board of the Town of Mamaroneck makes the following findings as required by New York State Town Law §267-b:

1. The Board finds the benefit to the applicant from the granting of the variance outweighs any detriment to the health, safety and welfare of the neighborhood or community. In reaching this conclusion, the Board considered the following factors.

A. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting of the variance.

The Board finds that granting the variance will not produce an undesirable change in the character of the neighborhood or detriment to nearby properties because the structure has existed for over 30 years, there were no comments or objections by the community and it fits within the character of the neighborhood and does not increase the footprint of the house.

B. Whether the benefit sought by the applicant can be achieved by some method feasible to the applicants other than an area variance.

The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible to the applicant not requiring a variance because it is an existing structure with no expansion proposed.

C. Whether the area variance is substantial.

The Board finds that the variance is not substantial because it is 9 square feet in total.

D. Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood.

The Board finds that the proposed variance will not have an adverse impact on the physical or environmental conditions in the neighborhood because there will be no increase in lot coverage or bulk and the seasonally used porch is not heated or cooled.

E. Whether the difficulty is self-created.

The Board finds that the previous owner not the present owner created the difficulty, but this factor is not determinative under the circumstances presented.

2. For the reasons stated above, the granting of this variance is in harmony with the general purposes and intent of the Town of Mamaroneck Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
3. For reasons stated above, the variance is the minimum necessary to alleviate the difficulty detailed in the application yet also preserves and protects the character of the neighborhood and the health safety and welfare of the community.

NOW, THEREFORE, BE IT

RESOLVED, that the subject application be and the same is GRANTED, subject to the following conditions:

GENERAL CONDITIONS:

1. This variance is limited to the construction shown on the submitted plans as conditioned and/or modified in accordance with the direction of the Board as agreed to by the Applicant.
2. The Applicant shall submit plans reflecting any conditions or modifications as above for the review and approval of the Director of Building prior to the granting of the building permit.
3. The Applicant shall obtain a building permit within (6) months of the filing of this resolution.
4. The Building permit shall be void if construction is not started within (6) months.
5. Construction shall be in compliance with the plans submitted in connection with this application, as conditioned or modified pursuant to the direction of the Board.

This decision shall be filed with the Town Clerk as provided in Section 267-a(2) of the Town Law.

**APPLICATION NO. 5
Public Hearing**

CASE NO. 3014

David Szuchman

3 Country Lane

Motion: To open the public hearing

Action: Approved

Moved by Arthur Wexler, Chairman, **Seconded by** Irene O'Neill.

Denis Cuccinella, draftsman for Victor G. Carosi, P.E., stated his client purchased the house in 2010. Mr. Cuccinella stated there was a previous variance for the present deck, and the owner is looking to repair and increase the size of the deck now. The plan of the original deck is dated March 1961.

Mr. Landi stated that staff will look for a previous variance.

Mr. Sacks asked for a site plan.

The applicant stated that lot coverage would increase by 2 %.

Mr. Wexler suggested the applicant request an adjournment for staff to locate the previous variance and the applicant prepare a site plan.

The matter was adjourned at the applicant's request.

APPLICATION NO. 6 CASE NO. 3015 Edward and Amy Hogan 269 Murray Avenue
Public Hearing

Motion: To open the public hearing

Action: Approved

Moved by Arthur Wexler, Chairman, **Seconded by** Irene O'Neill.

Mr. Hogan, the owner, stated he is in the process of putting an addition on his house within the setbacks, and would like to place 2 air conditioning condenser units on the side of the house that will require a variance. He further stated that there is existing shrubbery and the affected neighbors gave a letter in support.

Other possible locations were discussed. Mr. Hogan stated he has windows on the other side and the units couldn't be placed there. Mr. Wexler requested plans of the house so the Board can understand that is it not an alternate solution.

Other possible locations were discussed. Mr. Hogan stated he has windows on the other side and the units couldn't be placed there. Mr. Wexler requested plans of the house so the Board can determine whether there is an alternate solution.

Mr. Wexler also requested larger plans, as he is having trouble reading the fine print.

Mr. Landi asked if the stop work order on the property has been corrected and, Mr. Hogan stated it was removed.

Mr. Sacks stated he feels the applicant needs a larger variance then requested because the railing at the window wells requires a variance.

Mr. Wexler stated the patio may need a variance, as well as the wide walk way.

Mr. Hogan stated that the neighbor's patio is up against the property line.

Mr. Wexler stated that the A/C units need to be at least 12-18 inches from the house for maintenance and ventilation. The units are 34 inches square and it looks as though they do not fit in the area.

The Board asked the applicant to modify the drawing.

Mr. Hogan asked for the handrail around the window wells to be included in the variance request.

Mr. Wexler stated that the application as presented is not acceptable and needs to be corrected and renoticed.

The applicant requested an adjournment.

MINUTES

Motion: To approve the minutes of December 16, 2015 as submitted

Action: Approved

Moved by Arthur Wexler, Chairman, **Seconded by** Irene O'Neill.

ADJOURNMENT

The meeting was adjourned at 9:45

Minutes Prepared by

Francine M. Brill

Zoning Board of Appeals