

**THE MINUTES OF THE REGULAR MEETING OF THE ZONING BOARD
OF APPEALS OF THE TOWN OF MAMARONECK, FEBRUARY 24, 20166
HELD IN CONFERENCE ROOM C, OF THE TOWN CENTER
740 WEST BOSTON POST ROAD**

Roll Call.

Present: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate

Also Present: Lisa Hochman, Counsel, John H. Landi, Building Inspector.

Absent/Excused: Arthur Wexler, Chairman, Evans Simpson.

CALL TO ORDER

The meeting was called to order at 7:52 P.M.

Ms. O'Neill, the Acting Chair, explained that there are only four members present and stated that the applicant would need a vote of three members in favor to be approved. If any applicant would like to adjourn the matter he or she may request to do so.

MINUTES

The minutes were not discussed.

APPLICATION NO. 1 CASE NO. 3011 Ryan Weber 748 Forest Avenue Public Hearing continued

Mr. Webler the applicant, addressed the Board, and gave a brief synopsis of his application. He stated he purchased the property 5 years ago put off repairing the patio until 2 years ago. He submitted architect plans showing cutting into the existing patio and the property and extending the green border around patio. The border is 1 ½ feet wide.

Mr. Webler further stated that the fence on the wall is his neighbors and they have received a Notice of Violation, the fence may be removed and plantings put on the wall to create a privacy screen.

The Board discussed the plan, and landscaping.

The fence and the pitch of the patio will be inspected by the Building Department.

Conditions were discussed. The border is to be 1 ½ feet wide remaining pervious with plantings.

Coverage was discussed Ms. Hochman stated that coverage can be reflected in the resolution.

There were no public questions or comments.

Motion: To close the public hearing

Action: Approved

Moved by Irene O'Neill, **Seconded by** Jeffery King.

Motion: To approve the requested variance with conditions

Action: Approved

Moved by Jonathan Sacks, **seconded by** LC .

Vote: Motion passed (**summary:** Yes = 4, No = 0).

Yes: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate.

After review, on motion of Jonathan Sacks, seconded by Elizabeth Cooney the following resolution was proposed and ADOPTED unanimously (3-0, Abstain 1).

Ayes: Irene O'Neill, Acting Chair, Jonathan Sacks, Elizabeth Cooney, Alternate.

Nays: None

Abstain : Jeffery King

WHEREAS, Ryan Webler, requested a variance to legalize the repair and extension of a rear patio located at 748 Forest Avenue and known on the Tax Assessment Map of the Town of Mamaroneck as Block 223, Lot 48; 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, 240-37F, and 240-69 and; and

WHEREAS, the applicant submitted an application for a variance to this Board for reasons set forth in such application the patio has a 1 ½ foot side yard and a 1 ½ foot rear yard where 5 feet is required for both the rear and side yard, also the area of the patio increases lot coverage to 41.2% where 35 % is required and further the patio increase the extent by which the property is nonconforming for a residence in an R- 10 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; and

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. That the change is not substantial as it relates to the patio itself. Would note that this is an existing non-conforming structure that has an existing 38.8 % coverage, where 35 % is allowed the new request is going to be 41.2 %. Board should note there was an existing grandfather in there this new variance will eliminate that.

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. There could be more impervious area removed but the Board finds that this is substantial enough to achieve the benefit that is necessary. The alternative to create a larger permeable surface but there is large amount of rock on the side.

In order to keep the size would reduce the functionally

C. Whether the area variance is substantial.

The Board finds that the variance is not substantial. It is the finding of the Board that the 2.4% increase is not substantial over the existing conforming even though the 5% is somewhat substantial over the existing zoning requirement of 35% coverage. T

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

The Board finds that it will not have an adverse impact it will improve the run off it will help with the ability of water being properly absorbed because they are reducing the non-permeable and increasing the permeable surface. It is a mostly enclosed rear yard and therefore not impacting the neighborhood.

E. Whether the difficulty is self-created.

The Board finds that the difficulty is self-created, but that 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 the 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.
6. The Board requires that plantings should ultimately be done, in some way that will create screening between the two properties. That can be achieved in multiple ways either by planting on the surfaces as specified, or as indicated by the home owner if the fence is to be removed above perhaps something can be worked out the plantings should happen before next winter.

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

APPLICATION NO. 2 CASE NO. 3014 David Szuchman 3 Country Road

Public Hearing continued

Denis Cuccinella, draftsman for Victor G. Carosi, P.E., addressed the Board, stating the owner needs to repair the rear deck and would like to enlarge the deck to accommodate his growing family.

The Board discussed the previous resolution and whether there were conditions.

The rear property line, rock and possible impact on the neighboring properties was discussed.

It was determined that the large rock outcropping is not on the property.

There were no public questions or comments.

Motion: To close the public hearing

Action: Approved

Moved by Jonathan Sacks, **Seconded by** Irene O'Neill.

Motion: To approve the requested variance

Action: Approved

Moved by Jeffery King, **seconded by** Jonathan Sacks

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate.

After review, on motion of Jeffery King, seconded by Jonathan Sacks, the following resolution was proposed and ADOPTED unanimously (4-0).

Ayes: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate.

Nays: None

WHEREAS, David Szuchman, requested a variance to remove and replace with a larger rear deck on the premises located at 3 Country Road and known on the Tax Assessment Map of the Town of Mamaroneck as Block 320, Lot 56; 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 240-36B.(3),and 240-69; and,

WHEREAS, the applicant submitted an application for a variance to this Board for reasons set forth in such application, the rear deck as proposed has a rear yard of 13 feet where 25 feet is required and further the deck increases the extent by which the building is nonconforming for a residence in an R-15 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; and

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. The existing topography, mature vegetation, and the fact that immediately behind the there are no existing dwellings and if a dwelling was to be built it would be at a higher elevation and thereby the granting of this variance will not affect the neighborhood in any way.

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. The granting of the 2 additional feet the applicant is looking for is minor in the totality of the size of the property in relationship to the porch/deck which is being proposed. The Board weighed the feasibility of increasing the length of the deck by doing that and maintaining the width of 13 feet it then impacts the ingress/egress to the rear of the house. Weighing all the considerations we believe that this is will have the least impact.

C. Whether the area variance is substantial.

The Board finds that the variance is not substantial.

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

The granting of the variance will not adversely affect as under the deck is pervious and the Board maintains that construction follow that plans as presented to the Board this evening. The pervious material under the deck will be maintained.

E. Whether the difficulty is self-created.

The Board finds that the difficulty is self-created, but that 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 the 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 3. CASE NO. 3015 Edward and Amy Hogan 269 Murray Avenue

Public hearing continued

Mr. King stated that he has had a business arrangement with Mr. Lewis but that will not affect his objectivity on the matter, there were no objections to his hearing the application.

Greg Lewis, the applicant's architect, addressed the Board stating the owner is presently building an addition that meets setbacks but are before the board requesting placement of air conditioning condenser units on the right side of the house. He further explained why the left side would not be feasible as there are a number of windows on that side and the neighbor's patio would be impacted by the placement of the units there.

The window wells with railings were discussed. Mr. Landi stated that if the A/C units are approved the window wells and railings would be of a lesser impact and be approved.

The Board discussed the exact variance size.

The Board discussed the requested variances.

Plantings were discussed.

There were no public questions or comments.

Motion: To close the public hearing

Action: Approved

Moved by Irene O'Neill, **Seconded by** Jonathan Sacks

Motion: To approve the requested variances.

Action: Approved

Moved by Elizabeth Cooney, Alternate, **seconded by** Jonathan Sacks.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 4).

Yes: Irene O'Neill, Jeffery King, Jonathan Sacks Elizabeth Cooney, Alternate.

After review, on motion of Elizabeth Cooney, seconded by Jonathan Sacks the following resolution was proposed and ADOPTED unanimously (4-0).

Ayes: Irene O'Neill Acting Chair, Jeffery King, Jonathan Sacks Elizabeth Cooney, Alternate.

Nays: None

WHEREAS, Edward and Amy Hogan, requested a variance install air conditioning units, window wells and railings on the premises located at 269 Murray Avenue and known on the Tax Assessment Map of the Town of Mamaroneck as Block 113, Lot 123; 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 240-38B(2)(a); and

WHEREAS, the applicant submitted an application for a variance to this Board for reasons set forth in such application, the air conditioning condenser units and the window wells and railings have a side yard of 5 feet 4 inches where 10 feet is required for a residence in an R7.5 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; and

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. The adjacent property is sufficiently far from the proposed improvements, such that it will not affect the neighbor, nor is it visible from Murray Avenue.

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. Certainly the air conditioning unit could be moved to another area on the property but in fact that would disturb the applicant's enjoyment of the back yard and the east side neighbor.

C. Whether the area variance is substantial.

The Board finds that the variance is not substantial, given the nature of the request and the size of the parcel.

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

The request will not have an adverse physical or environmental effect, it will not disturb the adjoining neighbor or increase the impervious nature of the parcel.

E. Whether the difficulty is self-created.

The Board finds that the difficulty is self-created, but that 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 the 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.
6. The Board is granting the variance to a distance of 5 feet 4 ½ inches only for the air conditioning units and 6 feet ¾ inches for the window wells.

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

APPLICATION NO. 4 CASE NO. 3016 Mr. and Mrs. Edward Mahler 47 Echo Lane

Public Hearing

Motion: To open the public hearing

Action: Approved

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

Susan Mahler the owner stated they have been living in the house 45 years, and everything is as it was when they purchased. Ms. Mahler stated that 4 houses on the block were built by the same builder in the same manner.

The air conditioning unit was placed there in 1997 because of the placement of the trees are on the side, and the home owners wanted to buffer the sound to neighbors. A bill for the installation of the air conditioning condenser units was entered into the record and marked exhibit 1, non pro tunc.

The concrete patio is large impervious squares.

Mr. Sacks stated that the applicant could remove the coverage issue if patio was removed.

The Board discussed the application.

There were no public questions or comments.

Motion: To close the public hearing

Action: Approved

Moved by Irene O'Neill, **Seconded by** Jeffery King.

Motion: To approve the requested variance

Action: Approved

Moved by Irene O'Neill, **seconded by** Jeffery King

Vote: Motion passed (**summary:** Yes = 4, No = 0).

Yes: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate.

After review, on motion of Irene O' Neill, seconded by Jeffery King the following resolution was proposed and ADOPTED unanimously (4-0).

Ayes: Irene O'Neill, Acting Chair, Jeffery King, Jonathan Sacks, Elizabeth Cooney, Alternate
Nays: None

WHEREAS, Mr. and Mrs. Edward Mahler, requested a variance for legalization of the existing porch where windows were added, existing concrete terrace and existing air conditioning condenser unit on the premises located at 47 Echo Lane and known on the Tax Assessment Map of the Town of Mamaroneck as Block 118, Lot 45; 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, 240-50, 240-59A, 240-59F and 240-69; and

WHEREAS, the applicant submitted an application for a variance to this Board for reasons set forth in such application, the existing porch where windows were added has a side yard of 9 feet 1 inch where 10 feet is required, the existing concrete patio has a side yard of 1 foot 4 ½ inches where 5 feet is required and the air conditioning condenser unit has a side yard of 7 feet 1 inch where 10 feet is

required, lot coverage is 38 % where 35% is required, and further this increases the extent by which the building is nonconforming for a residence in an R- 7.5 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; and

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. The porch with the windows and the concrete patio has been in place since at least 1971, and the air conditioning unit has been in place since 1997.

- 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. Given that the structures have been in place for so many years the only alternative is to remove them which is not a practical solution.

- C. Whether the area variance is substantial.

The Board finds that the variance for the porch with windows given that it is only about a foot is not substantial. The concrete patio encroaches more into the side yard but is a flat surface that is not visible to the neighbors or the street. The ac were installed prior to the requirement for an area variance.

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

Given that the porch and patio have existed for decades about 45 years house was constructed perhaps since the in the current location it will not increase runoff

E. Whether the difficulty is self-created.

The Board finds that the difficulty may not be self-created as they bought the house in 1971 and these conditions already existed, but that 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 the 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.

ADJOURNMENT

The meeting was adjourned at 9:15 P.M.

Minutes prepared by

Francine M. Brill