

BOARD OF APPEALS

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
May 11, 2016

A regular meeting of the Board of Appeals of the Village of Scarsdale was held in Rutherford Hall in Village Hall on Wednesday, May 11, 2016, at 8:00 p.m.

Those members present were Jeffrey Watiker, Chair, Justin Arest, Anil Ferris, and Mary Kaye Koch. Also present were Counsel Richard Gardella, Building Inspector Frank Diodati and Village Planner Elizabeth Marrinan. Ms. Green was absent.

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The Chair welcomed Mr. Anil Ferris to the Board as a new member. He thanked Mr. Ferris for agreeing to serve.

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The Chair said please allow me to take a few moments of your time to explain the Board's procedures. We hear each application in the order in which it is noticed -- we hear first from the applicant and then from any persons speaking in favor of or in opposition to the application.

After all of the evening's hearings, the Board will deliberate. Deliberations are open to the public. You are free to leave at the conclusion of your hearing or to stay for the deliberations. Some applicants choose to leave once their hearings have been concluded, while others choose to remain here. Should you decide to leave before the Board's deliberations you may obtain the Board's decision by calling Elizabeth Marrinan at Village Hall on Friday at 722-1132. Also on Friday, the decisions will be posted on the web at www.scarsdale.com under Planning. Whether you stay or go has no bearing on the Board's deliberations or decision.

At the conclusion of deliberations on each application, the Board attempts to reach a consensus. For an application to be granted, at least three of the Board's five members must vote in favor of that application. The Board's decision is memorialized in a written resolution. The resolutions are filed at Village Hall and are available to the public.

This evening we have only four members of the Board in attendance. An application requires three positive votes to pass, however, so if you wish to postpone your hearing until the next meeting of the Board, you may do so.

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The reading of the following legal notice was waived pursuant to a continuing resolution adopted by unanimous vote of the Board:

**LEGAL NOTICE
PUBLIC HEARING
BOARD OF APPEALS
VILLAGE OF SCARSDALE**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Board of Appeals of the Village of Scarsdale in **Rutherford Hall** in Village Hall, 1001 Post Road, Scarsdale NY 10583, on **Wednesday, May 11, 2016**, at 8:00 p.m. at which time and place the Board of Appeals will consider the following:

1. The application of Susan and Elliot Rose for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to legalize an existing hot tub at 15 Richbell Road, identified on the Village tax map as Sec. 14, Blk. 5, Lot 25.1.
2. The application of Elizabeth and Steven Gruber for a variance from Chapter 310-7S of the Village Code to install a generator in the front yard at 18 Richbell Road, identified on the Village tax map as Sec. 14, Blk. 6, Lot 25B.
3. The application of Courtney and Jeffrey Allen for a variance from Chapter 310-51 of the Village Code to construct an addition that would intrude into the required side yard setback at 5 Ridgecrest North, identified on the Village tax map as Sec. 5, Blk. 1, Lot 35.
4. The application of Lauren and Jason Young, as contract vendee, for a variance from Chapter 310-53 of the Village Code to construct an addition that would intrude into the required side on corner setback at 25 Mamaroneck Road, identified on the Village tax map as Sec. 15, Blk. 2, Lot 7.

Copies of the above applications are on file in the Coordinating Office at Village Hall and may be viewed by interested parties at any time during usual business hours. To receive meeting agendas by e-mail, visit www.scarsdale.com and "Subscribe to News".

By Order of the Board of Appeals, Scarsdale, New York, dated April 26, 2016.
Elizabeth Marrinan, AICP, Village Planner.

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CASE # 24 of 2016

1. The Chair declared the hearing open on the application of Susan and Elliot Rose for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to legalize an existing hot tub at 15 Richbell Road, identified on the Village tax map as Sec. 14, Blk. 5, Lot 25.

Mr. Matt Pisciotta, attorney for the applicant was present.

Mr. Pisciotta described the application, noting the hot tub was installed on the rear terrace and is compliant with the setback requirements. He said the applicants intend to fix the fence to make sure the hot tub and pool are fully enclosed with code compliant fencing.

Ms. Koch asked when the hot tub was installed. Mr. Pisciotta said it was installed in 1998.

The Chair asked if there was anyone who wished to be heard with respect to this application, either in favor or in opposition. No persons desiring to be heard, the Chair declared the hearing closed.

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CASE # 25 of 2016

2. The Chair declared the hearing open on the application of Elizabeth and Steven Gruber for a variance from Chapter 310-7S of the Village Code to install a generator in the front yard at 18 Richbell Road, identified on the Village tax map as Sec. 14, Blk. 6, Lot 25B.

Mr. and Mrs. Gruber, applicants, were present.

Mr. Gruber described the application. He said they'd been living in this 85 year old house for 22 years on a heavily treed street and have lost power many times. They would like to install a generator on the existing concrete pad used for the air conditioner condensers. The plan is to upgrade the condensers which will allow room for the generator and to use existing utility connections. The pad is located in the front yard at what is the side of the house. He said the code compliant alternative in the side yard is just 12 ft. further from the street but would be more visible and closer to the neighbors. He said the existing pad is heavily screened.

Mr. Arest asked if the applicant would be willing to add screening to ensure the generator is not visible from the street. Mr. Gruber said yes, but he felt it was adequate.

The Chair asked if there was anyone who wished to be heard with respect to this application, either in favor or in opposition. No persons desiring to be heard, the Chair declared the hearing closed.

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CASE #26 of 2016

3. The Chair declared the hearing open on the application of Courtney and Jeffrey Allen for a variance from Chapter 310-51 of the Village Code to construct an addition that would intrude into the required side yard setback at 5 Ridgecrest North, identified on the Village tax map as Sec. 5, Blk. 1, Lot 35.

Mr. Sid Schloman, architect, was present.

Mr. Schloman said he is here on behalf of Mr. Mrs. Allen and described the application. He said they are proposing a two story addition. On the first story they are hoping to extend the garage on this 1923 house. The garage is small and the chimney

encroaches into it so they cannot open the car doors. They are seeking an 8 ft. setback where 10 ft. is required. He noted the second story would be step back and conform to the 10 ft. requirement. The project meets all of the other zoning requirements. He said the existing screening would remain. The existing house to the right is at a higher elevation and should not be impacted.

The Chair said he understood the necessity for extending into the side yard for the garage, but questioned why it is necessary for the mud room and bathroom behind the proposed garage. Mr. Schloman said they could probably make it function without it, but the straight run is a more aesthetic and efficient approach.

Mr. Arest asked for the existing and proposed dimensions of the garage. Mr. Schloman said they are proposing to go from 8 ft. 9 in wide to 11 ft. 3 in. wide to make it more functional.

The Chair asked if there was anyone who wished to be heard with respect to this application, either in favor or in opposition. No persons desiring to be heard, the Chair declared the hearing closed.

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CASE # 27 of 2016

4. The Chair declared the hearing open on the application of Lauren and Jason Young, as contract vendee, for a variance from Chapter 310-53 of the Village Code to construct an addition that would intrude into the required side on corner setback at 25 Mamaroneck Road, identified on the Village tax map as Sec. 15, Blk. 2, Lot 7.

Mr. Schloman, architect, was present.

Mr. Schloman said he is here on behalf of Mr. Mrs. Young who are excited about purchasing this 1907 home. He described the application, noting the proposal is to eliminate the western extension of the driveway and the one car garage below and to construct a new two car garage on the eastern side of the house. The current garage would become a storage room. The proposal would conform if the property were not a corner lot. The proposed garage, with a standard depth, would be set back 29 ft. where 40 ft. is required as a side on corner setback. The proposal would reduce the impervious surfaces and otherwise conform to the code.

Mr. Arest asked if there was a traffic and safety concern by shifting the garage to the eastern side because the existing curb cut is very close to the corner. Mr. Schloman said they were seeking to maintain the two curb cuts as they are. Mr. Arest noted more traffic was likely to use the eastern curb cut to get to the relocated garage on the east side.

Ms. Marrinan said the eastern curb cut probably would not meet today's engineering standards, but she was not sure the Board could deprive the property owner of a second curb cut.

Ms. Koch asked why they were looking to move the garage to this side of the house. Mr. Schloman said the new location was closer to the kitchen and would be on the first floor level of the house. He discussed the difference in topography.

The Chair asked if anyone would like to speak to the application.

Dr. Wolcheck, 20 Mamaroneck Road, said she lives across the street. She said she did not come to object, but was curious about the application and the Board's process as she's lived here for 52 years.

Ms. Deborah Annex, 7 Park Road, said she lives next door and felt it was a good solution given the internal layout of the house. She said it could be screened from Park Road.

The Chair asked if there was anyone else who wished to be heard with respect to this application, either in favor or in opposition. No other persons desiring to be heard, the Chair declared the hearing closed.

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CASE #24 OF 2016

1. Susan and Eliot Rose
15 Richbell Road
Sec. 14, Blk. 5, Lot 25.1
Special Use Permit to legalize a hot tub

The Board considered the application of Susan and Eliot Rose, Case #24 of 2016, and, upon motion duly made and seconded, unanimously adopted the following resolution:

WHEREAS: The Board has considered the subject application pursuant to the State Environmental Quality Review Act and Chapter 152 of the Village Code; now therefore be it

RESOLVED: That after careful examination of the site and evaluation of the information submitted with the application, the Board determined that such application, the construction of minor accessory structures (such as driveways fences or pools), is a Type II action pursuant to 6 NYCRR 617.5 (c) (10) and no further environmental review is required pursuant to said regulations; and

WHEREAS: The property, located in the A-1 (1 acre) zoning district, is shown in the Assessor's records as 1.62 acres; and

WHEREAS: The house was built in 1922, a pool in 1967, a generator installed in 2008 and a garage addition was completed recently; and

WHEREAS: Chapter 310-88 of the Village Code authorizes the Board of Appeals to consider Special Use Permits for the construction of swimming pools; and

WHEREAS: The plans show the location of the existing hot tub on the rear slate patio which was not included with the pool plans from 1967; and

WHEREAS: The hot tub location appears to meet the 30 ft. setback requirements; and

WHEREAS: The applicant's representative stated at the meeting that the pool enclosure fencing would be replaced as necessary to be code compliant; and

WHEREAS: The Board members have visited the site and are familiar with the materials in the application; now therefore be it

RESOLVED: That the application of Susan and Elliot Rose for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to legalize an existing hot tub at 15 Richbell Road, as shown on Plan L-1 dated April 7, 2016 be approved based on the following findings and conditions:

1. The hot tub is consistent with the public health, safety, morals and general welfare of the community.

2. There shall be installed and maintained on the lot upon which the hot tub is located, and completely enclosing the hot tub, a fence or wall not less than 5 feet in height, with all gates and doors equipped with self-closing and self-latching devices designed to keep and capable of keeping such gates and doors securely closed at all times when not in actual use.
3. Evergreen screening shall be at a minimum of 5 feet in height, and spaced so as to completely screen the hot tub from the view of all persons occupying adjoining properties and from the street, subject to the approval of the Building Inspector. The landscaping features shall be installed and maintained on the applicant's property as long as said hot tub is in existence.
4. Lighting of the hot tub and adjacent premises shall be limited to underwater lighting.
5. Drainage and sanitary facilities, conforming to the requirements of the Scarsdale Village Code, shall be installed and maintained. Measures must be taken to insure that water containing chemicals, such as acids or detergents resulting from lowering the water level of the hot tub or from cleaning, will be pumped directly into the sanitary sewer system, and not drained onto any land or into any stream or storm drain.
6. The use of the hot tub shall be limited to the occupants of the principal building and their guests.
7. The applicant shall file for a Building permit and obtain a Certificate of Occupancy to legalize the hot tub. An as-built survey will be required to show the final fence location and the location of the hot tub.
8. The Certificate of Occupancy shall not be issued until the applicant complies with all conditions set down by the Board.

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CASE #25 OF 2016

2. Elizabeth and Steven Gruber
18 Richbell Road
Sec. 14, Blk. 6, Lot 25B
Variance to install a generator in the front yard

The Board considered the application of Elizabeth and Steven Gruber, Case #25 of 2016, and, upon motion duly made and seconded, unanimously adopted the following resolution:

- WHEREAS: The Board has considered the subject application pursuant to the State Environmental Quality Review Act and Chapter 152 of the Village Code; now therefore be it
- RESOLVED: That after careful examination of the site and evaluation of the information submitted with the application, the Board determined that such application, the construction of minor accessory structures (such as driveways fences or pools), is a Type II action pursuant to 6 NYCRR 617.5 (c) (10) and no further environmental review is required pursuant to said regulations; and
- WHEREAS: The property, located in the A-1 (1 acre) zoning district, is shown in the Assessor's records as 2.13 acres and the house was built in 1930; and
- WHEREAS: The property was merged with an adjacent undeveloped lot in 1995; and
- WHEREAS: The Board of Appeals approved a side yard setback variance for an addition on the eastern side of the house in 1993 and a tennis court was built in 1995; and
- WHEREAS: Chapter 310-7S of the Village Code specifies that generators may be installed in the side or rear yards; and
- WHEREAS: The plan labeled "Outdoor locations" indicates the proposed generator location is in the area of the existing air conditioner units in front of the existing garage; and
- WHEREAS: This area is considered the front yard for zoning purposes, although it functions as a side yard, given the siting of the house which is set back 45.8 ft.; and
- WHEREAS: The application materials state the proposed front yard location would be better screened and located further away from the neighbors than a conforming location in the side yard; and
- WHEREAS: The Board members have visited the site and are familiar with the materials in the application; and

WHEREAS: The Board members considered the criteria for granting area variances pursuant to New York State Village Law Section 7-712 (b) and conducted the appropriate balancing test as required therein, weighing the benefit to the applicant against the detriment to the neighborhood or the community; now therefore be it

RESOLVED: That the application of Elizabeth and Steven Gruber for a variance from Chapter 310-7S of the Village Code to install a generator in the front yard at 18 Richbell Road, as shown on Plan DG 001 dated 3/25/16 be approved based on the following findings and condition:

1. The requested variance will not create an undesirable change in the character of the neighborhood as the generator will be well screened from view.
2. The benefit sought, namely to install a generator in an area furthest away from neighboring houses, cannot be achieved by another feasible method other than an area variance. The applicant has demonstrated that installing the generator in a conforming location would have a greater impact on those neighboring properties.
3. The requested variance is not substantial in terms of distance from a conforming location in the side yard and, due to the siting of the house on the property, the proposed location will have a lesser impact than a conforming location.
4. The requested variance will not have an adverse physical or environmental impact on the neighborhood.
5. The alleged hardship is not self-created.

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CASE #26 OF 2016

3. Courtney and Jeffrey Allen
5 Ridgecrest North
Sec. 5, Blk. 1, Lot 35
Variance to construct an addition that would intrude into the required side yard setback

The Board considered the application of Courtney and Jeffrey Allen, Case #26 of 2016, and, upon motion duly made and seconded, unanimously adopted the following resolution:

- WHEREAS: The Board has considered the subject application pursuant to the State Environmental Quality Review Act and Chapter 152 of the Village Code; now therefore be it
- RESOLVED: That after careful examination of the site and evaluation of the information submitted with the application, the Board determined that such application, the granting of area variances for single family residences is a Type II Action pursuant to 6 NYCRR 617.5(c) (13) and no further environmental review is required pursuant to said regulations; and
- WHEREAS: The property, located in the A-4 (7,500 sq. ft.) zoning district, is shown in the Assessor's records as .20 acres or 8,750 sq. and is improved with a house dating from 1923; and
- WHEREAS: The Board of Appeals granted a side yard setback variance for a former deck and stair on the northwestern side of the house in 1986 which were later removed during a 1993 renovation; and
- WHEREAS: Chapter 310-51 of the Village Code regulates the required side yard setback in the A-4 district to 10 ft.; and
- WHEREAS: The plans and application materials show the proposed construction of a two story addition on the eastern side of the property; and
- WHEREAS: The first floor addition includes a slightly expanded garage, to accommodate the size of current cars, as well as a mudroom and bathroom to the rear; and
- WHEREAS: The first floor addition would be set back 8 ft. where 10 ft. is required in the side yard for a requested variance of 2 ft. or 20%; and
- WHEREAS: The second floor addition would be built to the existing setback of 10.4 ft. and thus, no variance is required for the second story; and
- WHEREAS: The proposed addition appears to meet the lot coverage and FAR regulations; and

WHEREAS: The Board members have visited the site and are familiar with the materials in the application; and

WHEREAS: The Board members considered the criteria for granting area variances pursuant to New York State Village Law Section 7-712 (b) and conducted the appropriate balancing test as required therein, weighing the benefit to the applicant against the detriment to the neighborhood or the community; now therefore be it

RESOLVED: That the application of Courtney and Jeffrey Allen for a variance from Chapter 310-51 of the Village Code to construct an addition that would intrude into the required side yard setback at 5 Ridgecrest North, as shown on Plan A-1 dated 4/22/16 and undated plans A-2 through A-4, be approved based on the following findings and conditions:

1. The 2 ft. side yard variance is granted for the depth of the garage only. The balance of the first floor addition shall conform with the required side yard setback.
2. The requested variance, as modified above, will not create an undesirable change in the character of the neighborhood.
3. The benefit sought, namely a garage which will accommodate the size of today's cars, cannot be achieved by another feasible method other than an area variance given the location of the 1923 house on the property and the chimney intrusion.
4. The requested variance is not substantial, again as modified, with the rest of the two story addition conforming with the required side yard setback.
5. The requested variance will not have an adverse physical or environmental impact on the neighborhood.
6. The alleged hardship with regard to the garage is not self-created.

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CASE #27 OF 2016

4. Lauren and Jason Young, as contract vendee
25 Mamaroneck Road
Sec. 15, Blk. 2, Lot 7.
Variance to construct an addition that would intrude into the required side on corner setback

The Board considered the application of Lauren and Jason Young, s contract vendee, Case #27 of 2016, and, upon motion duly made and seconded, held the application over to a future meeting pending:

1. Further consideration of the ingress and egress at the eastern side of the property.
2. Additional detail about how the proposed addition will be screened from Park Road.

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Upon duly made and seconded, the minutes of the April 6, 2016, meeting were approved as amended.

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The Chair announced that the next meeting of the Board of Appeals would be held on Wednesday, June 8, 2016, at 8 p.m.

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The meeting was adjourned at 9:30 p.m.

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Elizabeth Marrinan, AICP
Village Planner