

BOARD OF APPEALS

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
June 8, 2016

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

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

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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 tomorrow at 722-1132. Also, tomorrow 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.

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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, June 8, 2016**, at 8:00 p.m. at which time and place the Board of Appeals will consider the following:

1. 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.
2. The application of Edgar Luna and Jennifer Nicoletti for a variance from Chapter 310-102 of the Village Code to construct an addition which would exceed the maximum permitted Floor Area Ratio at 8 Taunton Road, identified on the Village tax map as Sec. 7, Blk. 1, Lot 96.

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 May 24, 2016.
Elizabeth Marrinan, AICP, Village Planner.

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CASE # 27 of 2016

1. 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.

Sid Schloman, architect, was present.

The Chair said the matter was held over from last month and, while one member was not at that meeting, you should assume we are all up to speed on the application.

Mr. Schloman described the application saying they propose a two story addition on the Park Road side of the house for a two car garage and bedroom on the first floor with another bedroom and bath on the second floor. He said the existing basement garage at the rear would be re-used as a gym or for storage.

Mr. Schloman said at the last meeting the Board raised questions about the existing circular driveway and the proximity of the eastern entrance to the intersection of Park and Mamaroneck Roads. He said he'd reviewed it with his client who would like to maintain a circular driveway on the property and presented several alternate designs to the Village Engineer. They agreed the best alternative was to relocate the eastern curb cut 50 ft. to the west based on the existing topography and landscaping along the Mamaroneck Road side of the property. In addition, they propose to remove and/or prune the landscaping at the corner,

which currently is a visual obstruction. The Board also asked them to look at screening the proposed addition from Park Road and they have provided an updated plan with evergreen screening in that area.

Mr. Schloman said the requested variance was for a 29.5 ft. setback where 40 ft. is required for a side yard on a corner.

The Chair said they appreciated the steps the applicant had taken to address the Board's concerns. He asked if the additional screening proposed was on the applicant's property. Mr. Schloman said yes, the landscaping is proposed for the applicant's property. The Chair asked what sort of landscaping was being considered. Mr. Schloman said they would be a minimum of 5 ft. evergreen or arbor vitae on the Park Road side. They would also be planting additional trees in the area where the driveway will be removed to offset the proposed tree removal in the area of the new curb cut.

The Chair asked for clarification of the proposed use of the old garage. The plans indicated it is to be removed. Mr. Schloman said no, it would be re-used as a gym or for storage and he would change the plans to reflect this.

Mr. Arest asked if the proposed driveway location needs a variance. Ms. Marrinan said no. The Village Engineer has the authority to establish guidelines regarding curb cuts, but these are not part of the Village zoning code and thus don't need a variance.

The Chair asked if there was anyone who wished to be heard with respect to this application, either in favor or in opposition.

Mr. Mrs. Annex, 7 Park Road, said they had no objection, but came to the meeting to see the driveway solution.

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 # 28 of 2016

2. The Chair declared the hearing open on the application of Edgar Luna and Jennifer Nicoletti for a variance from Chapter 310-102 of the Village Code to construct an addition which would exceed the maximum permitted Floor Area Ratio at 8 Taunton Road, identified on the Village tax map as Sec. 7, Blk. 1, Lot 96.

Ms. Jennifer Nicoletti, applicant, and Mr. Sam Vieira, architect, were present.

Mr. Vieira described the application, stating they are proposing to construct a two story addition on the east side of the house. The reasons for the addition are twofold: there is

not adequate space for gathering and there is no bathroom on the first floor. The second story would allow them to create a larger master bedroom, bath and closet space. He said the FAR exceeds the maximum permitted by 174 sq. ft. or 5%. The detached storage shed totals 76 sq. ft. and is included in the calculations, so the addition only exceeds the maximum by 100 sq. ft.

The Chair said looking ahead, if they were to condition the variance on the shed's removal to reduce the variance rather than hold it over, would the applicant be ok with that approach? Mr. Vieira distributed pictures, said he'd discussed the option with his client and wanted to make clear that it is used as a shed, not a playhouse. He said if that was the difference between an aye or a nay vote, it would be ok to remove the shed.

Ms. Green asked to confirm that the shed was used for storage. Mr. Vieira said the surveyor assumed it was a playhouse, but no, it is used for storage.

Mr. Vieira mentioned that because the addition was being built in the area of an existing one story room and a patio, the total lot coverage would be reduced slightly.

Mr. Arest said the front of the house is currently set back 29.8 ft. where 30 ft. are required. Would the addition be set back to conform to the 30 ft. requirement? Mr. Vieira said yes, it will be set back and conform.

The Chair asked if there was anyone 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 #27 OF 2016

1. Lauren and Jason Young
25 Mamaroneck Road
Sec. 15, Blk. 2, Lot 7
Variance to construct an addition which would intrude into the side on corner setback

The Board considered the application of Lauren and Jason Young, Case #27 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 or expansion of a single family residence, is a Type II action as is the granting of area variances, pursuant to 6 NYCRR 617.5(c) (9, 13) and no further environmental review is required pursuant to said regulations; and

WHEREAS: The property, in the A-1 (1 acre) zoning district, is shown in the Assessor's records as 1.59 acres and is located at the corner of Mamaroneck Road and Park Road; and

WHEREAS: The house was built in 1907 and a pool added in 1977; and

WHEREAS: Chapter 310-53 of the Village Code regulates the required side on corner yard setback which, in the A-1 district, is 40 ft.; and

WHEREAS: The plans and application materials show the proposed construction of a two story addition to the eastern side of the house; and

WHEREAS: The addition would provide for a new two car garage and bedroom on the first floor and an additional bedroom and bonus room on the second floor; and

WHEREAS: The addition would allow for the re-use of the existing basement garage and eliminate the portion of the existing driveway which leads to the garage at the rear of the house; and

WHEREAS: The proposed addition would be set back 29 ft. 8 in. from the eastern property line where 40 ft. is required for the side on corner setback, a requested variance of 10 ft. 4 in. or 25%; and

- WHEREAS: The Board considered the application at its May 11, 2016 meeting and held the matter over pending review of (a) the ingress and egress on the east side of the property as the existing curb cut is very close to the intersection of Mamaroneck and Park Roads and (b) further consideration of the screening of the addition from Park Road; and
- WHEREAS: The applicant reviewed various options with Village staff and submitted revised plans which relocate the curb cut to further to the west, away from the intersection; and
- WHEREAS: The revised plans also showed additional evergreen screening of the addition from Park Road; 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 Lauren and Jason Young 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, as shown on Plan A-2, revised 5/26/16, be approved based on the following findings and conditions:
1. The requested variance will not create an undesirable change in the character of the neighborhood.
 2. The benefit sought, namely a garage located on the main level adjacent to the existing kitchen, cannot be achieved by another feasible method given the house's existing layout.
 3. The requested variance may appear substantial however the size of the variance partially results from this being a corner lot and thus having a rather large setback requirement from Park Road. In addition, the lack of nearby houses and the proposed screening help mitigate the size of the variance.
 4. The requested variance will not have an adverse physical or environmental impact on the neighborhood.
 5. The alleged hardship is not self-created.
 6. The variance is conditioned on the planting and maintenance of a minimum 5 ft. high evergreen screening along the Park Road side of the property in the area of the addition, as shown on the plans referenced above.

In addition, the note regarding the existing basement garage should be changed to indicate its new use.

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CASE #28 OF 2016

2. Edgar Luna and Jennifer Nicoletti
8 Taunton Road
Sec. 7, Blk. 1, Lot 96
Variance to construct an addition which would intrude into the side on corner setback

The Board considered the application of Edgar Luna and Jennifer Nicoletti, Case #28 of 2016, and upon motion duly made and seconded with Mr. Arest, Mr. Ferris, Ms. Koch and Mr. Watiker voting in favor and Ms. Green opposed, 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 or expansion of a single family residence, is a Type II action as is the granting of area variances, pursuant to 6 NYCRR 617.5(c) (9, 13) and no further environmental review is required pursuant to said regulations; and
- WHEREAS: The property, located in the A-3 (10,000 sq. ft.) zoning district, is shown in the Assessor's records as 9,810 sq. ft. and is improved with a house dating from 1936 in the Crane Berkley neighborhood; and
- WHEREAS: Given the unusual pie shape of the lot, the setbacks are not straight-forward: the northern, Taunton Road side, is considered the front yard with a 30 ft. setback requirement; the opposite side is the rear yard (30 ft.); the East Taunton Road side is the side on corner yard (20 ft.) and the opposite side, where the addition is proposed, is the side yard (10 ft.); and
- WHEREAS: In 1939, the Board granted a variance for the extension of the garage on the East Taunton Road side of the property and in 1988, the Board of Appeals granted a variance to enclose an existing porch; and
- WHEREAS: Chapter 310-102 of the Village Code regulates the maximum permitted FAR based on total lot size; and
- WHEREAS: Chapter 310-105 of the Village Code describes the procedure for the review of FAR variances; and
- WHEREAS: The plans show the proposed construction of a two story addition on the eastern side of the house where an existing single story sunroom and patio are located; and

WHEREAS: The proposed plans show the addition would be for a family room and bath on the first floor and a master bathroom on the second floor; and

WHEREAS: The FAR form indicates the proposed floor area would be 3,637 sq. ft. where 3,462 sq. ft. are permitted for a requested variance of 174 sq. ft. or 5% and, as the applicant points out, the FAR calculations also include the 76 sq. ft. wood shed/playhouse in the rear 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 Edgar Luna and Jennifer Nicoletti for a variance from Chapter 310-102 of the Village Code to construct an addition which would exceed the maximum permitted Floor Area Ratio at 8 Taunton Road, as shown on Plans SP-1, A-1 and A-2 dated 5/4/16, be approved based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood.
2. The benefit sought, namely a family room and first floor bath, cannot be achieved by another feasible method given the house's existing layout and its siting on this pie-shaped property.
3. The requested variance may appear substantial; however it includes the floor area of an existing shed which is located to the rear of the property and does not materially contribute to the appearance of bulk from the street.
4. The requested variance will not have an adverse physical or environmental impact on the neighborhood and will result in a slight decrease in the total lot coverage on the property.
5. The alleged hardship is not self-created.

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Upon duly made and seconded, the minutes of the May 11, 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, July 20, 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