

BOARD OF APPEALS

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
July 20, 2016

A regular meeting of the Board of Appeals of the Village of Scarsdale was held in Rutherford Hall in Village Hall on Wednesday, July 20, 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, Village Planner Elizabeth Marrinan and Assistant to the Planner, Cameron McLeod.

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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 Cameron McLeod at Village Hall tomorrow at 722-1131. 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.

The Chair said he would like to welcome a new staff member, Cameron McLeod, the Assistant to the Planner. He thanked Cameron for being here.

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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, July 20, 2016**, at 8:00 p.m. at which time and place the Board of Appeals will consider the following:

1. The application of F & W Industries LLC for a variance from Chapter 310-51 of the Village Code to construct an addition which would intrude on the required side yard setback at 22 Fairview Road, identified on the Village tax map as Sec. 15, Blk. 5, Lot 67.
2. The application of Fatine Kourakos for variances from Chapters 310-51 and 310-67 of the Village Code to construct an addition to the garage which would expand the existing intrusion into the required side yard setback at 4 Burgess Road, identified on the Village tax map as Sec. 14, Blk. 6, Lot 12.
3. The application of 26 Hampton Road LLC, as contract vendee, for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 26 Hampton Road, identified on the Village tax map as Sec. 4, Blk. 4, Lot 517.
4. The application of 20 Meadow Road Realty Corp. for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 20 Meadow Road, identified on the Village tax map as Sec. 23, Blk. 1, Lot 108.

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 July 5, 2016.

Elizabeth Marrinan, AICP, Village Planner

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CASE # 29 of 2016

1. The Chair declared the hearing open on the application of F & W Industries LLC for a variance from Chapter 310-51 of the Village Code to construct an addition which would intrude on the required side yard setback at 22 Fairview Road, identified on the Village tax map as Sec. 15, Blk. 5, Lot 67.

Scott Laurie, architect, was present.

Mr. Laurie described the application, a proposal to construct a two story addition to the eastern (left) side of the property to accommodate a garage and mudroom on the first floor with a bedroom above.

Mr. Laurie explained that the variance is required for two small encroachments on the required side yard setback, being 2.6 foot and 1.5 foot. Mr. Laurie explained that the proposed encroachments are triangular in shape, and therefore, are visually diminished. He noted that the proposal includes removal of the driveway, which will increase green space. He explained that the variance is required due to the irregular shape of the lot, which is triangular in nature, and therefore precludes other development.

Mr. Laurie briefly addressed the area variance tests. He explained that the proposed minor expansion does not negatively change the neighborhood or impact nearby properties, will increase the value of the property itself, and removal of the existing driveway will increase green space. Mr. Laurie noted that while the need for a variance is essentially self-created, the nature of the lot precludes other options.

The Chair asked whether there were any additional amendments to the plans since the revised plans were submitted. Mr. Laurie confirmed that there were no additional amendments.

Ms. Marrinan noted that the application seeks to relocate the driveway to align with the new garage. Ms. Marrinan had spoken to the Village Engineer, who indicated he would be approving the new curb cut. However, the Village Engineer noted that more tree removal than what is shown on the plans would be required and a tree removal permit and tree replacement will be required. Also, a sight distance analysis would be required in order to address any visual obstructions.

Mr. Arest asked whether the applicant had considered forgoing the mud-room and therefore preventing the second intrusion. Mr. Laurie explained that existing sub-standard on-site amenities and complicated access to the house need to be rectified, in order to modernize the house. Installation of a mudroom is therefore the applicant's preferred option.

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 # 30 of 2016

2. The Chair declared the hearing open on the application of Fatine Kourakos for variances from Chapter 310-51 and 310-67 of the Village Code to construct an addition to the garage which would expand the existing intrusion into the required side yard setback at 4 Burgess Road, identified on the Village tax map as Sec. 14, Blk. 6, Lot 12.

Bana Choura, architect, was present.

Ms. Choura described the application, stating they propose to construct a single story addition to the existing garage, with an extension to the front and addition of a mudroom to the back. The existing garage is non-conforming, as it intrudes into the side yard setback. Therefore, variance is sought to exacerbate an existing non-conformity.

Ms. Choura explained that the garage currently intrudes 6 feet into the 20 feet setback. The depth of the intrusion will not be exacerbated by the proposed extension, but the length and area of intrusion will be increased.

Ms. Choura noted that there is a small butler wall, which currently increases the intrusion by 4 feet, but is not shown on the plans. This would be removed, improving the visual appearance of the setback from the street.

The Chair noted that the property was not staked when he visited the property earlier during the week of the hearing, and Mr. Arest also noted that it was not staked when he conducted a site visit that day. Ms. Choura responded that the builder was instructed to stake the site. The Chair requested that the site be staked if the application was held over.

The Chair inquired whether there were elevation plans of the proposed amendments to allow the board to visualize the changes. Ms. Choura responded that there was only what was provided to the Board of Architectural Review. She explained that the garage door will be moved forward, the slate roof continued, and the mudroom back wall would be identical in style to the rest of the garage, in keeping with the design of the house.

The Chair enquired about the need for the extension and addition of the mudroom, and also asked why the mudroom needs to be as wide as proposed. Ms. Choura explained that the depth of the garage is currently restrictive, at 19.5 feet, barely accommodating two cars. She also explained that the existing entrance to the house is directly from the garage to the kitchen, the mudroom would therefore allow more appropriate access.

The Chair noted that the neighbors bordering the side yard have living space adjacent to the proposed mudroom. He indicated he felt the proposed extension would further encroach into the view from their living space. Ms. Choura responded that the

extension would aesthetically improve the building and therefore the neighbors' view. She also noted that there is well established vegetation on the boundary, which provides appropriate screening.

The Chair asked whether the mudroom could instead remain within the confines of the setback, as opposed to aligning with the existing garage wall. Ms. Choura felt that aligning the walls would be preferable from an architectural perspective. She also noted that the additional space in the mudroom would accommodate a changing area and access for the pool in the backyard. She explained that the applicant felt that the cost would not be justified for a smaller expansion.

Ms. Green asked whether the applicant had considered expanding the rear of the garage, instead of both the front and rear. Ms. Choura explained that this would not allow entrance to the kitchen from the mudroom.

The Chair asked whether holding over the hearing until the staking could be viewed by all board members and concept drawings submitted, would impose an unreasonable hardship on the applicant. Ms. Choura responded that there would be additional time and effort involved in preparing drawings, and the next hearing would not be for two months, resulting in a significant delay to construction, which is currently ongoing. She noted that the staking would not be an issue.

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 # 31 of 2016

2. The Chair declared the hearing open on the application of 26 Hampton Road LLC, for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 26 Hampton Road, identified on the Village tax map as Sec. 4, Blk. 4, Lot 517.

Geoff Ringler, representative, was present.

Mr. Ringler described the application. The applicant proposes to construct a swimming pool, along with the installation of three retaining walls. As part of the construction, significant landscaping is required along with the removal of a number of mature trees and shrubs. Mr. Ringler displayed photos of the site and an example of the stone veneer to be used on the retaining wall.

The Chair asked staff whether the Board of Architectural Review would consider the stone veneer, or whether the Board of Appeals had the scope to do it. Ms. Marrinan responded that as the veneer is related to the pool, it is not something the Board of Architectural Review would normally review. Mr. Ringler informed the Chair that the

Board of Architectural Review had deferred the decision on the stone veneer to the Board of Appeals.

Mr. Arest asked staff whether approval of a special use permit could be contingent on review by the Board of Architectural review of the stone veneer. Ms. Marrinan responded that a recommendation from the Board of Architectural review could be requested. The Chair noted that the Board may pass the application to the Board of Architectural Review for consideration. Mr. Ringler added that the retaining walls are not visible from Hampton Road.

Mr. Arest noted that the only plans that show the proposed grading was the Stormwater and Erosion Control plan (SWEC). He requested that if the proposal were to be held over, it would be helpful if the grading were shown on the proposed site plan.

Mr. Arest also noted that existing and proposed landscaping is not shown on the site plans, but that the SWEC shows that some trees will be removed. Mr. Ringler noted that four trees will be removed along the southern (right) boundary for the addition, however, he felt these would not contribute to screening. He also noted that there is a mature oak tree that will be compromised by construction and therefore will likely be removed. Otherwise, no vegetation along the perimeter of the property will be removed.

The Chair requested additional detail regarding the existing and proposed screening, if the application were to be held over.

Ms. Green asked about the existing screening. Mr. Ringler indicated that the applicant intends to replace the existing White Pine with Spruce, to align with the other boundary of the property. Ms. Marrinan noted that the code requires that the pool must be screened from view of the neighbors on all sides. She noted that white pine is not considered appropriate for screening under the Board's regulations, and therefore must be replaced or supplemented if the application is approved. She also noted that the site plan should indicate all existing trees intended to be used as screening.

The Chair noted that it would be helpful to also have the retaining walls staked, to assist with decision making, particularly if the Board of Appeals is to make a determination on the stone veneer.

Ms. Green questioned the five foot wooden picket fence shown on the plan. Mr. Ringler responded that this has actually been changed to a wrought iron fence, that would extend from the northeastern corner of the house, extending around the pool, running along the retaining wall, to the north western corner of the house. The retaining wall and pool fence would collectively measure nine and a half feet from the poolside.

Frank Diodati, Building Inspector, noted that two versions of the plan have been submitted, one showing a concrete retaining wall with stone veneer and the other a stone retaining wall. Mr. Diodati requested that the plans be amended to align.

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 # 32 of 2016

4. The Chair declared the hearing open on the application of 20 Meadow Road Realty Corp. for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 20 Meadow Road, identified on the Village tax map as Sec. 23, Blk. 1, Lot 108.

Jordan Dubbs, applicant, was present.

Mr. Dubbs showed an amended site plan, which identified the fencing to be used for pool screening and photos showing staking around the edge of the proposed pool, plantings and details of fence.

The Chair inquired whether pool equipment, when located within the pool enclosure, needs to be separately screened. Ms. Marrinan said yes, it would need to be separately screened. Both the pool and the equipment pad require a minimum of five feet high evergreen screening, in order to mitigate both the visual and noise effects. Mr. Dubbs confirmed he intended to use both vinyl fencing and evergreen screening around the pool equipment.

Mr. Diodati asked what the dimensions of the pool are, as they are not shown on the site plan. Mr. Dubbs said the pool would be 20 by 40 feet.

Mr. Diodati inquired whether the evergreen screening would be touching when planted. Mr. Dubbs said yes.

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 #29 OF 2016

1. F & W Industries LLC
22 Fairview Road
Sec. 15, Blk. 5, Lot 67
Variance to intrude into the required side yard setback

The Board considered the application of F & W Industries, Case #29 of 2016, and, upon motion duly made and seconded, unanimously 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 expansion of a single family residence and the grant of area variances for single-family residences, are Type II actions 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 an irregular, pie-shaped property shown in the Assessor's records as 8,875 sq. ft.; and

WHEREAS: The house was built in 1925; and

WHEREAS: The property is in a Sensitive Drainage Area, pursuant to Chapter 254 of the Village Code; and

WHEREAS: Chapter 310-51(A) of the Village Code regulates the required side yard setback in the A-3 district to 10 ft.; and

WHEREAS: The plans and application materials show the proposed construction of a two story addition on the eastern (left) side of the property to accommodate a garage and mudroom on the first floor with a bedroom above; and

WHEREAS: The existing driveway and detached garage in the rear of the property would be removed and a new driveway constructed leading to the garage addition; and

WHEREAS: Two corners of the proposed addition would intrude into the required side yard setback; and

WHEREAS: At its closest point the addition would be set back 7.4 ft. where 10 ft. is required for a requested variance of 2.6 ft. or 26%; and

WHEREAS: The correspondence submitted with the application states that the total square footage intruding into the required setback is 7.9 sq. ft. for the garage and 2.5 sq. ft. for the mud room; and

WHEREAS: The plans were reviewed preliminarily by the Village Engineer who noted the proposed driveway location would require street trees to be removed and thus, a tree removal permit and tree replacement will be required; 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 F & W Industries LLC for a variance from Chapter 310-51 of the Village Code, to construct an addition which would intrude on the required side yard setback, as shown on plans BOA-1 revised 7/11/2016 be approved based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood and will be in keeping with neighboring homes.
2. The benefit sought, namely an attached garage located on the main level, cannot be achieved by another feasible method given the house's location on this irregularly shaped lot.
3. The requested variance is not substantial as only 11 sq. ft. would intrude into the required side yard setback.
4. The requested variance will not have an adverse physical or environmental impact on the neighborhood.
5. The alleged hardship is not self-created and is primarily due to the pie shape of the property.

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CASE #30 OF 2016

2. Fatine Kourakos
4 Burgess Road
Sec. 14, Blk. 6, Lot 12
Variance to expand an existing intrusion into the required side yard setback

The Board considered the application of Fatine Kourakos, Case #30 of 2016, and, upon motion duly made and seconded, held the application over to a future meeting pending receipt and review of the following:

1. Additional justification for the size of the requested variance for the mudroom at the rear of the garage.
2. Elevations of the proposed front, rear and side facades of the addition to help the Board visualize the proposal.
3. Clarification of the first floor plans to show the proposed configuration as opposed to the existing layout.
4. The proposed addition and the new location of the pool equipment should be staked.

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CASE #31 OF 2016

3. 26 Hampton Road LLC
26 Hampton Road
Sec. 4, Blk. 4, Lot 517
Special Use Permit to construct a swimming pool

The Board considered the application of 26 Hampton Road LLC, Case #31 of 2016, and, upon motion duly made and seconded, held the application over to a future meeting pending receipt and review of the following:

1. Clarification of the landscaping plans including the existing and proposed landscaping materials. The pool equipment should be screened with landscaping materials as well.
2. The proposed re-grading should be shown on the site plan. The SWEC plan and the architectural plans should conform.
3. The lot coverage calculations should be reviewed to ensure the retaining walls with the proposed veneer have been included.
4. The location of the proposed pool and retaining walls should be staked.

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CASE #32 OF 2016

4. 20 Meadow Road Realty Corp.
20 Meadow Road
Sec. 23, Blk. 1, Lot 108
Special Use Permit to construct a swimming pool

The Board considered the application of 20 Meadow Road Realty Corp., Case #32 of 2016, and, upon motion duly made and seconded, 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-2 (20,000 sq. ft.) zoning district, is shown in the Assessor's records as 27,000 sq. ft.; and

WHEREAS: The original house was built in 1953 and a pool was constructed in 1960; however, after the Committee for Historic Preservation found the house was not historically significant, the house was demolished in 2014 and a new house was recently completed; and

WHEREAS: Chapter 310-88(A) 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 proposed construction of the swimming pool and associated patio, landscaping and fencing; and

WHEREAS: The location of the proposed pool and pool equipment appear to meet the setback requirements and the improvements also appear to meet the lot coverage requirements; 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 20 Meadow Road Realty Corp. for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 20 Meadow Road, as shown on the Plan C-1 dated 6/27/16, be approved based on the following findings and conditions:

1. The proposed swimming pool 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 pool is located, and completely enclosing the pool, 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. The fence shall be constructed as represented to the Board at the meeting and on the approved plans. The fencing detail shall be provided with the application for a building permit.
3. Evergreen screening shall be planted as represented on the plans but in any event, at a minimum of 5 feet in height, and spaced so as to completely screen the pool from the view of all persons occupying adjoining properties and from the street, subject to the approval of the Building Inspector, shall assure that these features be installed and maintained on the applicant's property as long as said pool is in existence.
4. A 24-hour filter circulating system shall be installed and maintained above ground, and said filter (and heater, if any) shall be enclosed with a fence 5 feet in height with a self-closing and self-latching gate and landscaped screening.
5. Lighting of the pool and adjacent premises shall be limited to underwater lighting.
6. 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 pool or from pool cleaning, will be pumped directly into the sanitary sewer system, and not drained onto any land or into any stream or storm drain.
7. The use of the swimming pool shall be limited to the occupants of the principal building and their guests.
8. No excavation or removal of additional soil or rock shall be permitted except to construct the pool and any related stormwater management facilities.
9. A Stormwater Management and Erosion Control permit is required and shall include methods and plans for tree conservation and preservation. The soil erosion control and tree protection measures shall be in place

prior to the issuance of a Building Permit. A tree removal permit may be required.

10. The applicant shall submit an "as built" survey and certified lot coverage form to the Building Inspector prior to the issuance of a Certificate of Occupancy, showing the final location of the pool, associated improvements, fencing and the as-built lot coverage.

11. The swimming pool shall be completed within 18 months and shall not be used prior to the issuance of a Certificate of Occupancy.

12. The Certificate of Occupancy shall not be issued until the applicant complies with all conditions set down by the Board.

13. Failure to obtain a Certificate of Occupancy for the swimming pool within a period of 18 months from the date of this resolution shall cause the Special Use Permit to become null and void.

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Board of Appeals 07/20/2016

Upon duly made and seconded, the minutes of the June 8, 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, September 14, 2016, at 8 p.m.

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The meeting was adjourned at 10:00 p.m.

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Cameron McLeod
Secretary to the Board