

BOARD OF APPEALS

RUTHERFORD HALL
VILLAGE HALL
SCARSDALE, NY
March 8, 2017

A regular meeting of the Board of Appeals of the Village of Scarsdale was held in Rutherford Hall in Village Hall on Wednesday, March 8, 2017, 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, Village Planner Elizabeth Marrinan and Assistant to the Village 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 in the Agenda Center. 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 if you wish, therefore, 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 the **Rutherford Hall** in Village Hall, 1001 Post Road, Scarsdale NY 10583, on **Wednesday, March 8, 2017**, at 8:00 p.m. at which time and place the Board of Appeals will consider the following:

1. The application of 14 Reimer Rd. LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 14 Reimer Road, identified on the Village tax map as Sec. 14, Blk. 3, Lot 18.
2. The application of Bilane Holdings LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 9 Birch Lane, identified on the Village tax map as Sec. 14, Blk. 6, Lot 37.
3. The application of 96 Morris La. LLC for Special Use Permits, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool and a tennis court at 96 Morris Lane, identified on the Village tax map as, Sec. 14, Blk. 5, Lot 14.

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 click on "Notify Me" to subscribe.

By Order of the Board of Appeals, Scarsdale, New York, dated February 22, 2017.
Elizabeth Marrinan, AICP, Village Planner

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CASE #4 OF 2017

1. The Chair declared the hearing open on the application of 14 Reimer Rd. LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 14 Reimer Road, identified on the Village tax map as Sec. 14, Blk. 3, Lot 18.

Dan Sherman, landscape architect, was present.

Mr. Sherman described the application. The applicant proposes a 20 foot by 40 foot pool in the rear yard. Because the rear yard is large, the applicant proposes to screen and fence around the perimeter of the pool. The eastern, southern and western

sections of the pool enclosure will be five foot decorative iron fence. An existing aged chain link fence on the northern section of the enclosure will be replaced with a new chain link fence.

The Chair asked if the plans have been amended since submission. Mr. Sherman said the plans were amended and distributed to the board prior to the meeting. The amendments included removal of a gate and adding supplementary evergreen screening.

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.

CASE #5 OF 2017

2. The Chair declared the hearing open on the application of Bilane Holdings LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 9 Birch Lane, identified on the Village tax map as Sec. 14, Blk. 6, Lot 37.

Bana Choura, architect and Frank Giuliano, landscape architect, were present.

Mr. Giuliano described the application. He said the existing SWEC does include the swimming pool.

Mr. Arest said the proposed lot coverage is very close to the maximum permitted and asked whether the applicant could certify whether this is accurate. Mr. Giuliano said they will work down from the proposed lot coverage and that it will be certified with an as built survey and lot coverage form.

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.

CASE #6 OF 2017

3. The Chair declared the hearing open on the application of 96 Morris La. LLC for Special Use Permits, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool and a tennis court at 96 Morris Lane, identified on the Village tax map as, Sec. 14, Blk. 5, Lot 14.

Ken Nadler, architect, was present.

Mr. Nadler said the pool and tennis court were approved over a year ago and now proposes to move the pool behind the house. The pool house is also being removed.

The Chair asked if the tennis court is considered pervious. Mr. Diodati said yes, it is considered pervious.

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 #4 OF 2017

1. 14 Reimer Rd. LLC
14 Reimer Road
Sec. 14, Blk. 3 Lot 18.
Special Use Permit to construct a swimming pool

The Board considered the application of 14 Reimer Rd. LLC, Case #4 of 2017, 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 and on the Short Environmental Assessment Form, 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 such regulations; and

WHEREAS: The property, located in the A-1 (1 acre) zoning district, is shown in the Assessor's records as 1.32 acres; and

WHEREAS: The original house was built in 1923; however it was demolished in 2016 and a new house is under construction; and

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

WHEREAS: The pool enclosure fencing is shown to be a 5 ft. high iron pool fence around the pool; and

WHEREAS: The landscaped pool screening is also located close to the pool; 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 14 Reimer Rd. LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code to construct a swimming pool as shown on the Planting Plan, revised 2/27/2017, at 14 Reimer Road 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, and the applicant 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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CASE #5 OF 2017

2. Bilane Holdings LLC
9 Birch Lane
Sec. 1, Blk. 6 Lot 37.
Special Use Permit to construct a swimming pool

The Board considered the application of Bilane Holdings LLC, Case #5 of 2017 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 .53 acres; and

WHEREAS: The original house was built in 1951; however it was demolished in 2016 and a new house is under construction; and

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

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 Bilane Holdings LLC for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 9 Birch Lane as shown on the Pool Area Master Site

Plan dated 2/7/17, 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, and the applicant 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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CASE #6 OF 2017

3. 96 Morris La. LLC
96 Morris Lane
Sec. 14, Blk. 5 Lot 14.
Special Use Permits to construct a swimming pool and tennis court

The Board considered the application of Arlene and Morris Goldfarb, Case #4 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 is located in the A-1 zoning district, is shown in the Assessor's records as 2.35 acres; and

WHEREAS: The original house was built in 1961; however it was demolished in 2016 and a new house is under construction; and

WHEREAS: The Board of Appeals approved Special Use Permits for the construction of a swimming pool and tennis court at its June 12, 2013 meeting; however those permits expired and, on January 13, 2016, the Board again approved Special Use Permits; and

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

WHEREAS: The plans have been revised and show the proposed construction of a swimming pool with a terrace, a Har-tru tennis court, fencing and landscaping; and

WHEREAS: Both the swimming pool and the tennis court appear to meet the 30 ft. setback requirements and the pool equipment meets the 20 ft. setback requirement; and

- WHEREAS: The applicant has submitted information regarding the Har-tru tennis court which indicates it is considered pervious for lot coverage requirements pursuant to Chapter 310-22 of the Village Code; however it will be considered impervious pursuant to Chapter 254 of the Village Code relative to Stormwater Management; and
- WHEREAS: The proposed pool enclosure fence shown on the Landscape Development Plan is a 5 ft. high metal picket fence around the perimeter of the property and the tennis court fencing is shown to be 10 ft. high chain link; and
- WHEREAS: The landscaping plans show the required 10 ft. wide planting area for the tennis court, the required evergreen screening for the pool and the trees to be removed which will require a tree removal permit; 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 Arlene and Morris Goldfarb for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool 96 Morris Lane, as shown on the Landscape Development Plan dated revised 2/10/17 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; and be it further

RESOLVED: That the application of Arlene and Morris Goldfarb for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a

tennis court at 96 Morris Lane, as shown on the Landscape Development Plan dated revised 2/10/17 be approved conditioned on the following:

1. Proper screening by evergreen plantings shall be planted, occupying an area not less than 10 feet in depth, which evergreens as represented on the plans but in any event, are not less than 5 feet in height, so that the court is not visible from any public or private property other than the owners, subject to the approval of the Building Inspector. The screening shall be maintained on the applicant's property as long as said tennis court is in existence.
2. The use of a ball machine or similar device is prohibited.
3. Roofing of any kind over the tennis court is prohibited.
4. The tennis court shall not be used for professional instruction except to occupants of the principal residential building.
5. The use of artificial illumination of any kind is prohibited.
6. Any removal of rock shall be done by methods other than blasting.
7. Loud speakers or similar amplifying devices are prohibited.
8. The fencing and fence supports used to enclose the court shall be of an unobtrusive color, provided however that the use of a dark color such as black, dark green or dark brown vinyl covered chain link shall ordinarily be considered acceptable.
9. The applicant shall submit an "as built" survey and certified lot coverage form to the Building Inspector, showing the final location of the court and fence.
10. The tennis court shall be completed within 18 months and shall not be used prior to the issuance of a Certificate of Occupancy.
11. The Certificate of Occupancy shall not be issued until the applicant complies with all conditions set down by this Board.
12. Failure to obtain a Certificate of Occupancy within a period of 18 months from the date of this resolution shall cause said resolution to become null and void.

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Upon motion duly made and seconded, the minutes of the February 8, 2017 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, April 5, 2017, at 8 p.m.

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The meeting was adjourned at 8:10 p.m.

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Cameron McLeod
Assistant to the Village Planner