

**Village/Town of Mount Kisco  
Zoning Board of Appeals  
Minutes of Tuesday, September 19, 2017**

Members Present: Chairman Harold Boxer  
Donald Rose  
Barbara Richards

Members Absent: Dan Guyder  
Linda Greenberg

Staff Present: Robert Melillo, Assistant Building Inspector  
Michelle Russo, Secretary

Staff Absent: Peter J. Miley, Building Inspector  
Whitney Singleton, Board Counsel

Chairman Boxer called the meeting to order at 7:05 p.m.

Chairman Boxer stated we'll pen the meeting of the ZBA on the 19<sup>th</sup> of September 2017. Before we start, there was an e-mail from Peter Miley which listed some interpretations that Whitney sent as to dimension because their property is not square and I'm going to ask those to be put into the minutes as exhibit A.

The Secretary stated yes sir.

Mr. Rose stated is there only that one copy?

The Secretary stated I did not make more than one copy. I apologize.

Ms. Richards stated and that's for Valley View Terrace, I assume.

Chairman Boxer most people left before there's only three of us on today, we'll get the new case, 17-6, 15 Valley View Terrace.

The Secretary stated Chairman, do you want to make a motion to adjourn the other cases off the agenda?

Chairman Boxer stated sure, someone make a motion.

**Ms. Richards made a motion to adjourn Case numbers 16-12, 16-20, 16-21, 17-3, and 17-4. Seconded by Mr. Ruse.**

**Chairman Boxer asked for all in favor, the motion carried by a vote of 3 to 0.**

Ms. Richards stated do you want to do the minutes?

Chairman Boxer stated no, we'll carry the minutes over to next time.

Ms. Richards stated okay.

Chairman Boxer stated okay, are you ready? Come on up.

**1. Dennis Gochuico  
15 Valley View Terrace  
Mount Kisco, NY 10549  
(SBL) 69.66-3-8**

**Case# 17-6  
Area Variance**

Mr. Dennis Gochuico was present.

Mr. Gochuico stated I guess so, I'm not sure what I'm supposed to do for you.

Ms. Richards stated why didn't you say "state your name for the record".

Chairman Boxer stated that's her job.

Ms. Richards stated that's what I said, to her.

Chairman Boxer stated can we have your name and address, please?

Mr. Gochuico stated Dennis Gochuico, 15 Valley View Terrace.

Chairman Boxer stated thank you.

Mr. Rose stated now you're the owner of the property.

Mr. Gochuico stated yes.

Chairman Boxer stated you're on the 117 side, correct?

Mr. Gochuico stated yes.

Chairman Boxer stated I live behind you.

Mr. Gochuico stated I know, you were on my mailing list.

Chairman Boxer stated I know, weird huh?

Mr. Gochuico stated since you didn't express that you don't want this to happen, I don't need to convince you any further.

Chairman Boxer stated well you're here because you need a variance, front yard and side yard.

Mr. Gochuico stated front and rear.

Ms. Richards stated right.

Chairman Boxer stated and the e-mail that I referenced before just explained how we're going to use some of the lines a little differently because again it's not really a square.

Mr. Gochuico stated it's far from a square.

Chairman Boxer stated it doesn't really matter much but okay. So you want to put, you want to show us your proposal?

Mr. Gochuico stated so what I would like to do, and you have a copy of the site plan is enclose my existing carport into a garage, put an addition on to the back, extending my kitchen, place a porch on the front of the house and build up adding a second story to the home.

Chairman Boxer stated okay, I assume, now we need him, I assume that there's no problem with the volume?

The Secretary stated the volume?

Chairman Boxer stated you know, you can only build so many square feet.

The Secretary stated as far as I'm aware no, there's not.

Chairman Boxer stated we'll find out when he shows up, okay. And...

Mr. Richards stated is that a photograph? That's what I was looking for, this is what exists now?

Mr. Gochuico stated yes, that was given to me when I purchased the home, so it's not as it exists exactly, the walkway is slightly different and there is a small porch on the front.

Ms. Richards stated that brings it out further you mean, so there's a porch here?

Mr. Gochuico stated there is a small, really just a landing to get in the door. It's much smaller than what's on the site plan.

Ms. Richards stated and what you're planning is to build out here?

Mr. Gochuico stated yes, to build forward there.

Ms. Richards stated and just enclose this that will be a garage.

Mr. Gochuico stated yes and build out on the second floor.

Mr. Rose stated its pretty hard to read the notes on the previous site drawing, do you have a full size, assuming that the lighter shade is the existing...

Mr. Gochuico stated so that is the only diagram that I did print out larger here. So this here is the existing footprint of the house, this is a car port, I would like to enclose that to a single car garage and build a second story across the entire house, this would be an extension of the existing kitchen and there's a bedroom back here and this would be a front stoop that would be added.

Mr. Rose stated is this a new bay or new...?

Mr. Gochuico stated there's an existing bay window here and actually what we want to do is extend that down to the floor level, so it would push out the entire window to...

Ms. Richards stated but it would be part of that front anyway.

Mr. Gochuico stated yes.

Ms. Richards stated what's behind the house?

Mr. Gochuico stated Sherwin Williams is behind the house here, Michael's Nursery is over here and I don't know the property might overlap a little bit...

Ms. Richards stated but there's no houses behind the house, that's what I'm asking.

Mr. Gochuico stated it's all wooded and it's a fairly long distance between the property line and the buildings, they're down grade from us.

Ms. Richards stated got it. Did you get any objections from any of your neighbors?

Ms. Gochuico stated nobody has expressed any objections to me.

Chairman Boxer stated did we get any objections?

The Secretary stated no, no written comment, nothing.

Chairman Boxer stated Rob, the question I have is since he's building up also, does it need any variances for the height or the variances.

Mr. Melillo stated the Building Inspector has not identified any of that.

Mr. Rose stated it shouldn't, I mean but 35 feet is the maximum height generally in the...

Mr. Melillo stated that I don't know offhand, what zone is it?

Mr. Rose stated the deck that's proposed, is that...?

Mr. Gochuico stated that would be new as well.

Ms. Richards stated it's in there somewhere.

Mr. Rose stated is that at grade?

Mr. Gochuico stated it would be slightly raised, above grade. There's a swale in the rear of the home right now but as part of this, I would try to regrade that a little bit. We regraded it a few years ago, fixed some drainage issues in the back of the house and as everything settled, I still ended up with a small depression in the backyard. But in the backyard, the property runs away from the house generally.

Mr. Rose stated so is the deck high that it needs a fence around it, a railing at the end or is one where you can just step off onto the lawn?

Mr. Gochuico stated I don't know if height the deck would require a railing, it would not be significantly above the lawn, it would be a foot or two, as the grade requires.

Mr. Rose stated is that something Rob that should be part of the permit?

Mr. Melillo stated I'm looking for the height, it's 35 feet.

Mr. Rose stated its unlikely to be that high.

Mr. Gochuico stated 25 is what my architect put on the plans.

Mr. Melillo stated 30 inches to be off the ground, 36 inches. 30 inches high has to have a railing 36 inches high, anything under 30 inches doesn't require a railing.

Mr. Rose stated oh okay.

Mr. Gochuico stated I don't anticipate it will be above 30 inches.

Mr. Rose stated okay, does the deck itself require a building permit? Should that be part of the plans?

Mr. Melillo stated yes that will be part of his...

Chairman Boxer stated okay, so...

Mr. Rose stated that will be part of the expansion probably.

Mr. Gochuico stated yes, it is included in my statement. I don't obviously have a building permit yet.

Ms. Richards stated so the rear is now 16 foot 8, give or take and will be going to 17'-6", right?

Mr. Gochuico stated no, it is the same one, this diagram shows it at 17'-6" and again it shows the 17'-6" up here I believe.

Ms. Richards stated oh it's going to increase the rear setback.

Chairman Boxer stated he's going to need to go further into the setback.

Ms. Richards stated right.

Mr. Rose stated now the...

Ms. Richards stated that's what it says here.

Chairman Boxer stated if you look at the bottom of the survey, the front setback is 28' now, he wants to lower it to 21', 26'. The side he wants to go from 20' to 12', in the rear according to the architect, there's no, the existing rear is already nonconforming.

Mr. Gochuico stated that's correct, that's the main reason I'm here.

Chairman Boxer stated okay but once you build, then you lose the status as nonconforming, just so you know that. Nothing you can do about it but...

Mr. Gochuico stated I can't make any improvements to my house without going through this process.

Chairman Boxer stated I understand.

Ms. Richards stated the side is still adequate so it doesn't, that's fine.

Chairman Boxer stated well the side if going to decrease on the deck side.

Ms. Richards stated right and go down to 12' from 20' feet but only for the width of the deck. He's measuring it here?

Mr. Rose stated Rob, are you familiar with the e-mail that just came in.

Mr. Melillo stated yeah, I read it, it looks like Peter corrected it.

Mr. Rose stated it would have bearing on the actual numbers. If it's to Whitney, then it makes sense to have his input on that, it changes the numbers.

Chairman Boxer stated Whitney said he'll be here?

The Secretary stated I haven't heard from him so I do not know, I expected him to be here. I don't know if he's under the assumption that we are starting at 7:30 and not 7:00.

Chairman Boxer stated might be.

Mr. Rose stated old habits die hard.

The Secretary stated especially since Planning Board still starts at 7:30.

Mr. Gochuico stated just to clarify, I see what you're talking the 16 feet, 8 and 17/32 that was on an earlier site plan from my architect. When they measured it out, it did not actually match exactly what's on this survey but its essentially not moving that corner of my carport.

Ms. Richards stated well if we're going to issue a variance, we need to know what the sizes are.

Mr. Rose stated does the...

Chairman Boxer stated according to the e-mail it was suggested that we use the rear yard setback of 20 feet.

Ms. Richards stated okay.

Chairman Boxer stated because of the shape, it varies right now, he suggested taking an average and getting 20 feet.

Ms. Richards stated okay.

Chairman Boxer stated so if that's the, if the rear is 20 feet, it's going to be now...

Ms. Richards stated 17.75.

Chairman Boxer stated right.

Ms. Richards stated 3.25, okay.

Mr. Gochuico stated if it was 20 feet, then it would 2.25.

Ms. Richards stated yes, which is pretty small.

Mr. Rose stated as far as things effecting the actual setback, is this, this is the only, this is a new bump out.

Ms. Gochuico stated this is a new bump out here, this is a new deck, this right here is existing, including this window and probably about that much of the front stoop, and this would be additional.

Mr. Rose stated well certainly the way I see it, I don't see a problem no matter what interpretation is used on the actual requirement, the setback is certainly not visible from the street. It's not going to be a problem to the commercial properties on the one side, only the neighbor on the right, that portion of the bump out is certainly far away from the side line, so maybe the deck itself needs a variance but if that's, if that's so low that it doesn't even require a fence, I doubt that that's going to be an objection, in any case. Was there any, nothing was heard from the neighbor on that side or...?

Mr. Gochuico stated the neighbor on that side, I spoke to him a while back, he had no objection he rents the home to somebody so he's not currently living there. I see him maybe once a year.

Chairman Boxer stated okay, I agree with you that there's really nothing major with this.

Ms. Richards stated it seems small enough.

Chairman Boxer stated and it's not going to set a precedent because it's an oddly shaped lot.

Ms. Richards stated yeah, chances of coming across another one shaped like that are very slim. It might be a different odd shape but it won't be that shape, that's what I mean.

Chairman Boxer stated the other thing that makes this less obtrusive is the fact that the back is a drop down to a commercial district.

Ms. Richards stated yup.

Mr. Rose stated at least on that one side.

Ms. Richards stated and the front is open, it's not like you're adding a closed in room to the front, it's just an open porch, which will probably fit with the design of some of the other houses in the area.

Mr. Gochuico stated that's not planned, if my wife changes her mind, I'm sure I'll be seeing you again soon.

Mr. Rose stated have you been to the Architectural Review Board?

Mr. Gochuico stated no, not yet, just going step by step as somebody tells me I need to apply, I apply.

Mr. Rose stated I would say the nature of the new construction is more in keeping with homes built today in appearance, it should make that particular site look better.

Chairman Boxer stated many of the houses along that side already have additions in the rear, they were all, I guess they were all ranches at one time, there's one that has a big higher addition on one side of the house that we approved a couple years ago.

Mr. Gochuico stated mine is only one of two existing ranches on the street. The house immediately to the south was the same model, they still have 925 square feet, I believe.

Ms. Richards stated that's pretty small.

Mr. Gochuico stated I know, I live in it.

Ms. Richards stated I think its small enough, I have no objection and odd enough of a property that I'm okay with it.

Mr. Rose stated the applicant should be advised that we don't have a full Board...

Chairman Boxer stated you can ask for a vote and if we don't all say yes, then you're going to be defeated.

Mr. Gochuico stated that was explained to me this morning.

Mr. Rose stated rolling the dice.

Chairman Boxer stated so I guess we'll be nice enough to go through the five factors. Okay...

Mr. Rose stated should we close the public hearing first?

Chairman Boxer stated yeah, I guess we should.

Mr. Rose stated noting that there is no public here.

Chairman Boxer stated motion?

**Ms. Richards made a motion to close the public hearing. Seconded by Mr. Rose.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated okay, and on to the five points

- 1. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance.*

Chairman Boxer stated which it doesn't, as he said, he's only one of two that haven't expanded so it's not going to create any problems there and most of the house is in the rear where there's nobody.

- 2. Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than area variance.*

Chairman Boxer stated as he pointed out, the existing rear yard was already less than the requirement to begin with and as we said the rear yard is not something, you don't see it from the front.

Ms. Richards stated and there's not houses behind.

Chairman Boxer stated remember when we had the Exxon people, the Mobil people and they had big slope going up, yeah, it's just like that.

3. *Whether the requested area variance is substantial.*

Chairman Boxer stated what the rear setback is going up to 17.61 where the requirement is 20...

Ms. Richards stated I think it's going to 17.75, if you look at proposed.

Chairman Boxer stated here it says 17.61...

Ms. Richards stated according to this the 17.61 is existing and the proposed will be 17.75.

Chairman Boxer stated right which both of those are on here, its because the question is what's the rear yard because you have that triangular effect, that's why we said we'll consider it 20 feet, so he wants to go down to 17.75, whereas 20 is required and I don't have a problem with that, anybody else?

Ms. Richards stated I do not have a problem.

Mr. Rose stated I think just to keep everything straight, if we were using the 30 feet that was originally proposed in Peter Miley's letter, I think we would still grant the variance and the number was actually less then reconsidering how to interpret the code, then that's fine.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.*

Chairman Boxer stated and as he mentioned already, he's already done drainage work, everybody on that hill has drainage problems. I even had them one time.

Ms. Richards stated and they'll regrade where they need to.

Chairman Boxer stated you're going to try and make everything level again, as much as you can.

Mr. Gochuico stated as close as I can, yes.

Chairman Boxer stated assuming Mother Nature agrees with you.

5. *Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board which shall not necessarily preclude the granting of the area variance.*

Ms. Richards stated and that its self-created.

Chairman Boxer stated everything is self-created, that's the one part that we always say and I don't have a problem at all with this.

Ms. Richards stated me either.

Chairman Boxer stated does somebody want to make a motion?

**Mr. Rose stated made a motion to approve the variances as outlined in the Building Inspector's denial letter, with the proviso that the actual numbers may be adjusted downward, resulting in a smaller variance and that we therefore approve the project as design.**

**Chairman Boxer stated the design is on plans made by Daniel Contelmo Architect and its dated June 28, 2017. Okay, do we have a second?**

**Ms. Richards seconded the motion.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**

Chairman Boxer stated thank you very much, you got it. Okay, does anybody have anything else they want to bring up?

Ms. Richards stated nope.

Mr. Rose stated I may not be here for the October meeting, I'm not sure.

Chairman Boxer stated well you can't help that.

Ms. Richards stated I should have no problem because I'm back.

**Ms. Richards made a motion to adjourn. Seconded by Mr. Rose.**

**Chairman Boxer asked for all in favor. The motion carried by a vote of 3 to 0.**