

**AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, HELD ON  
JUNE 2, 2022, THE FOLLOWING RESOLUTION WAS ADOPTED:**

Name: Frank and Nina Cooper  
Premises: 1260 Flagler Drive  
District: R-20  
Tax I.D.: Section 9, Block 60, Lot 149.1

**WHEREAS**, Frank and Nina Cooper (the "Applicants") have applied to the Zoning Board of Appeals ("ZBA") for area variances for the proposed second-story renovations to their existing single-family home (the "Project") at 1260 Flagler Drive in the Village of Mamaroneck (the "Premises"); and

**WHEREAS**, the Applicants proposed second story renovations include removing the existing dormers on the second floor, increasing the height of the second floor and modifying the second floor side walls over the first floor to provide an increase in habitable floor area on the existing second floor (the "Project"); and

**WHEREAS**, the Premises is within the R-20 zoning district and is currently improved with an existing single-family residence; and

**WHEREAS**, the Village Building Inspector made a determination that area variances were required for the Project on December 14, 2021; and

**WHEREAS**, during the pendency of application, the Applicants submitted the following materials:

- Cover Letter detailing the Project and reviewing the 5-factors for granting an area variance;
- Zoning Board of Appeals application;
- Zoning Compliance Determination, dated December 14, 2021;
- Short Environmental Assessment Form;
- Village of Mamaroneck Property Assessment Card for 1260 Flagler Drive;
- Village of Mamaroneck Property Data Card for 1260 Flagler Drive;
- Certificate of Occupancy #0-12393 dated December 1, 1960 and Certificate of Occupancy #17859 dated December 15, 2016;
- Copies of case law addressing second story improvements to pre-existing nonconforming side yards;
- Aerial photographs of the Premises and surrounding neighborhood;
- Relevant provisions of Edgewater Point Property Owners Association, Inc. ("EPPOA") By-Laws;
- Prior ZBA resolutions granting area variances for similar renovations to pre-existing nonconforming buildings;
- Photosimulations of the proposed renovations;
- Photographs of existing conditions at the property and in the surrounding neighborhood, prepared by Yestadt Architecture & Design;
- Site drawings prepared by Yestadt Architecture & Design, dated October 12, 2020 and revised through January 10, 2022 ; and
- Survey of the Premises prepared by Lalsa Land Surveying PLLC, dated June 12, 2019.

**WHEREAS** the Applicants appeared before the ZBA on February 3, 2022 for a public hearing and presentation and received comments from Board members and the public; and

**WHEREAS**, by a letter from their attorney dated February 17, 2022, the Applicants submitted to the ZBA a letter withdrawing the request for an interpretation that area variances were not needed for the Project and addressing comments from the Board and members of the public about the Project, with the following supplemental materials:

- August 3, 2020 letter from Yestadt Architecture on behalf of the Applicants to the EPPOA regarding proposed renovations;
- Floor Plans & Interior Photographs of 1280 Flagler Drive;
- Photosimulation of an as-of-right profile for the southern elevation of the residence, diagram of proposed renovations and photograph of existing conditions for the southern side property line;
- Diagram of proposed renovations and photograph of existing conditions for the northern property line; and
- Amended Site Drawings prepared by Yestadt Architecture & Design that included a proximity map, adjacent plan with 1280 Flagler Drive, Site Plans originally submitted to the EPPOA on August 3, 2020 detailing alternatives explored for the proposed design of the Project and an existing landscaping Plan.

**WHEREAS**, the property owners nearby the Premises opposed the Application and submitted information through their consultants, which included the following materials:

- Correspondence from Mintzer Mauch PLLC, dated March 2, 2022 with enclosures;
- Architectural Elevations from Arthur Wexler, an architect, dated last revised December 12, 2021 and January 31, 2022; and
- Correspondence from Ira M. Millstein dated February 22, 2022 with enclosures.

**WHEREAS**, by a letter from their attorney dated March 3, 2022, the Applicants submitted to the ZBA the following supplemental materials:

- November 15, 1990 ZBA Resolution granting an area variance from the side yard setback requirement to permit a second story to be constructed on the existing home at the property;
- October 1, 1990 letter from the EPPOA acknowledging EPPOA review and approval of the plans for the second story addition on the property;
- Survey of the property, prepared by Richard A. Spinelli and dated Sep. 8, 1994;
- Village of Mamaroneck Building Department Notice of Disapproval for the proposed second story addition on the property, dated September 14, 1990; and
- Site Plans for the second story addition on the property, prepared by R.W. Crozier & Assoc.; and

**WHEREAS**, the Applicants appeared before the ZBA on March 3, 2022 for continued public hearing on the Application; and

**WHEREAS**, by a letter from their attorney dated March 9, 2022, the Applicants submitted to the ZBA the following supplemental materials:

- Comparison charts and drawings prepared by Yestadt Architecture & Design, dated March 9, 2022, that provide details of the pre-existing and proposed non-conformances by floor plan square footage, sidewall square footage, bulk cubic feet, and height; and

**WHEREAS**, the nearby neighbors submitted information through their consultants, which included the following materials:

- Correspondence from Mintzer Mauch PLLC dated April 5, 2022 and related enclosures, including revised architectural plans, cited case law, FEMA 213 Guidance and prior correspondence from Mintzer Mauch PLLC; and
- Correspondence from Hollis Laidlaw & Simon, on behalf of the Board of Directors of Edgewater Point Property Owners Association, Inc. ("Edgewater"), dated April 7, 2022 enclosing a letter from Edgewater dated April 6, 2022; and

**WHEREAS**, the Applicants appeared before the ZBA on April 7, 2022 for a continued public hearing for the Project and at the meeting the ZBA closed the public hearing, providing for a limited written comment period open until May 5, 2022 on a specific item; and

**WHEREAS**, by a letter from their attorney dated April 21, 2022, the Applicants submitted to the ZBA the following supplemental materials:

- Amended Comparison charts and drawings prepared by Yestadt Architecture & Design, dated March 9, 2022, that provide details of the pre-existing and proposed non-conformances by floor plan square footage, sidewall square footage, bulk cubic feet, and height removing the proposed sidewalls and providing the proportionate increasing the bulk of the nonconforming space of the total home.

(with the submissions to the Zoning Board of Appeals noted above and items in the administrative record, referred to herein as the "Application Materials"); and

**WHEREAS**, the Applicants' material showed that the existing single-family residence is pre-existing nonconforming in the following ways:

- 1) The existing residence is setback 16' 9" at the nearest point from the southern property line, where 20 feet is required;
- 2) The combined side yard setback for the existing residence is 32.25 feet, where 45 feet is required; and
- 3) The existing residence has a floor area ratio of 27.5% where 25% is required.

**WHEREAS**, Zoning Code Section 342-65 states that "[a] variance from the Zoning Board of Appeals shall not be required for an addition to, enlargement or expansion of any such building unless the proposed alteration increases or expands the existing nonconformity of the building or creates new nonconformities[]"; and

**WHEREAS**, the Project will slightly decrease the existing floor area ratio nonconformity; and

**WHEREAS**, the Project will increase the existing side yard nonconformities due to added sidewall square footage and bulk cubic volume in the non-conforming side yards; and

**WHEREAS**, the Project does not extend further into the side yard setbacks than the existing conditions; and

**WHEREAS**, the Applicants have requested the below area variances to permit the construction of the Project, which would permit new encroachments into the required side yard setback, however, such encroachments are no greater than the existing nonconformities:

- 1) **Area Variance:** 3.25-foot area variance to allow the Project to be located 16' 9", at the closest point, from the southern property line where 20 feet is required; and
- 2) **Area Variance:** 12.75-foot area variance to allow for a combined side yard setback of 32.25 feet where 45 feet is required, allowing the Project to be located 15' 6", at the closest point, from the northern property line where 25 feet would be required.

(the "Area Variances"); and

**WHEREAS**, because the Project will increase existing non-conformities within the required side yard setbacks, area variances are required from the Board; and

**WHEREAS**, the Project is compliant with all other applicable area and bulk requirements within the Village's Zoning Code; and

**WHEREAS**, the Board considered the Application for area variances and all aforementioned supporting materials during duly noticed public hearings on February 3, 2022, March 3, 2022 and April 7, 2022 and received and considered comments from members of the public; and

**WHEREAS**, the Board closed the public hearing on April 7, 2022 and closed the written comment period on May 5, 2022; and

**WHEREAS**, the Board deliberated on the application at its May 5, 2022 and June 2, 2022 public meetings; and

**WHEREAS**, the Applicants and the public have had a sufficient opportunity to be heard with respect to the Application at the February 3, 2022, March 3, 2022 and April 7, 2022 meetings of the ZBA.

**WHEREAS**, the proposed action is a Type II pursuant to the New York State Environmental Quality Review Act ("SEQRA").

**NOW, THEREFORE BE IT RESOLVED**, that, after duly reviewing the Applicants' materials and materials provided by those opposed to the Project during the public hearings, the Board approves the requested Area Variances. In making its determination, the Board finds that the benefit to the Applicants from granting the requested Area Variances outweighs any detriment to the community or neighborhood based on the following findings:

- 1) The Area Variances will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties for the following reasons:
  - a. The Project seeks relief from the side yard setback (single) and side yard setback (combined) requirements in the Zoning Code to facilitate alterations to the existing

second floor. The Area Variances sought would permit the second story addition over the existing first floor in order to create more usable space on the second floor.

- b. The existing single-family residence on the Premises is currently nonconforming along the southern and northern property lines.
  - c. The requested Area Variances do not create any additional nonconformities or extend further into the pre-existing nonconforming side yards.
  - d. The proposed second story renovations are within the pre-existing nonconforming building envelope.
  - e. The building will comply with all other respects of the Zoning Code. The Area Variances will not result in development closer to the southern or northern side yards than what currently exists.
  - f. The lot immediately to the north of the Premises is vacant.
  - g. Landscaping is provided along the northern and southern lot lines where the Area Variances are being sought.
  - h. The Area Variances are consistent with other residences in the neighborhood.
- 2) The benefit sought by the Applicants cannot be achieved by some method, feasible for the Applicants to pursue, other than the Area Variances for the following reasons:
- a. The Applicants are seeking relief to remove the dormers and straighten the side walls to create increased livable space on the second floor.
  - b. Other means for achieving this same benefit would create increased impervious surface on the property, encroach further into the existing nonconforming side yards, increase the existing nonconforming floor area ratio or require an area variance for height.
  - c. The Applicants are proposing to decrease the pre-existing floor area ratio nonconformity.
  - d. Before submitting the Application to the ZBA, the Applicants represented that they explored alternatives for the proposed design of the Project and modifications made in response to EPPOA comments, as evidenced by materials provided in the Applicants' supplemental materials.
  - e. During the ZBA review process, the Applicants voluntarily removed the proposed privacy walls on the second floor, resulting in decreased sidewall square footage being proposed within the pre-existing nonconforming area.
- 3) The Board finds that the requested Area Variances are not substantial for the following reasons:
- a. The 3.25' minimum side yard variance for the southern property line is not substantial because:
    - i. This requested area variance will result in an insignificant amount of additional floor area within the pre-existing nonconforming setback; and
    - ii. The Project will not result in development closer to the southern property line than what currently exists;
    - iii. The building will comply with all other respects of the Zoning Code
    - iv. The small proportionate increase proposed in the bulk of the total nonconforming space of the entire home.

- b. The 12.75' combined side yard variance is not substantial because:
  - i. This requested area variance will result in an insignificant amount of additional floor area within the pre-existing nonconforming setback; ;
  - ii. The Area Variances will not result in development closer to the northern property lines than what currently exists;
  - iii. The small proportionate increase proposed in the bulk of the total nonconforming space of the entire home;
  - iv. The building with comply will all other respects of the Zoning Code
  - v. The northern property line is shared with a vacant lot; and
  - vi. To the extent that the combined side yard variance could be considered substantial from purely a mathematical standpoint when calculating the proposed increase in bulk cubic volume in the pre-existing nonconforming northern side yard, the Board finds that upon examining totality of the circumstances on the Premises and surrounding area, permitting the Project to be located 15' 6" from the northern side yard lot line, at the closest point, is not substantial.
- 4) The Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:
  - a. The Area Variances are not creating any additional impervious surface.
  - b. The Area Variances are not creating any disturbance at ground level.
  - c. The Area Variances will allow building within an existing pre-existing nonconforming setback.
  - d. The building will comply with all other respects of the Zoning Code.
- 5) The Board does find that the requested Area Variance are self-created, however, given the totality of the circumstance, this consideration is given less weight and shall not preclude the granting of the Area Variances because:
  - a. The Applicants are building within a pre-existing nonconforming area.
  - b. The applicants are not increasing impervious surface on the property.
  - c. The building with comply will all other respects of the Zoning Code.
- 6) The Board finds that the requested Area Variances are the least intrusive request because the Project is building within pre-existing nonconforming envelope, not encroaching further into the pre-existing side yards, not creating impervious surfaces, not creating any ground disturbance and are the building will comply with all other respects of the Zoning Code..

**BE IT FURTHER RESOLVED**, that, the granting of the area variances for the Project is conditioned on the following:

- 1) That the Applicants shall obtain a building permit and all other required permits and approvals from the Village of Mamaroneck.
- 2) The Applicant shall complete construction within 24 months of the date of this Resolution, unless otherwise extended by the ZBA.

- 3) The Project shall be constructed in compliance with the Application Materials and this Resolution, except for *de minimis* changes to the Project that may occur, but which shall not change the area variances.
- 4) The granting of these Area Variances does not relieve the Applicant from complying with all other applicable laws and regulations.

**BE IT FURTHER RESOLVED**, that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of ZBA member **NEUFELD** seconded by ZBA member **GLATTSTAIN** the foregoing resolution was adopted with all ZBA members voting as follows:

David Neufeld, Chair	YES
Gretta Heaney	ABSENT
Robin Kramer	YES
Brian Glattstein	YES

A handwritten signature in dark ink, appearing to be 'DN', followed by a horizontal line.

David Neufeld, Chair, Zoning Board of Appeals

Dated: June 2, 2022

**§AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF  
MAMARONECK, HELD ON SEPTEMBER 2, 2021, THE FOLLOWING RESOLUTION WAS  
ADOPTED:**

**APPLICATION NO. 3A 2021**

Name: Sarah and Bruce Robertson  
Premises: 732 The Parkway  
District: R-10  
Tax I.D.: Section 4, Block 70, Lot 27

**WHEREAS**, Sarah and Bruce Robertson (“Applicantss”) have applied to this Board for an area variance granting relief from the Village’s Zoning Code to increase the building height of a pre-existing legally non-conforming garage for to allow for renovations; and

**WHEREAS**, the Premises is within the R-10 zoning district and is currently improved with an existing single-family residence and a detached garage; and

**WHEREAS**, the Applicants provided an existing conditions survey indicating the location of the existing single-family residence and detached garage; and

**WHEREAS**, the Applicants has proposed renovations to the pre-existing legally non-conforming detached garage to allow for additional floor area within the existing garage. The proposed renovations for the garage will increase the height of the garage from 9.47 feet to 13.57 feet. All work will be done within the existing building envelope for the garage (the “Project”); and

**WHEREAS**, the Zoning Code permits a building height of up to 20 feet for the detached garage within the R-10 zoning district; and

**WHEREAS**, Zoning Code Section 342-65 states that “[a] variance from the Zoning Board of Appeals shall not be required for an addition to, enlargement or expansion of any such building unless the proposed alteration increases or expands the existing nonconformity of the building or creates new nonconformities[]”; and

**WHEREAS**, because the Project will increase an existing legal non-conformity, by increasing the floor area and height of the detached garage, an area variance is required from this Board; and

**WHEREAS**, in furtherance of the application, the Applicants submitted materials for the Board to consider, which included but were not limited to a survey, site



plans, elevations and architectural elevations and floor plans, and pictures of the landscaping in the vicinity of the area variance request; and

**WHEREAS**, the Board considered the Applicants's request for an area variance during two duly noticed public hearings on [INSERT] and [INSERT] and received and considered comments from members of the public; and

**WHEREAS**, the Board closed the public hearing on July 22, 2021; and

**WHEREAS**, the Board deliberated on the application at its July 22, 2021 and September 2, 2021 public meetings; and

**WHEREAS**, the proposed action is a Type II pursuant to the New York State Environmental Quality Review Act ("SEQRA").

**NOW, THEREFORE BE IT RESOLVED**, that, after duly reviewing the Applicants's materials and information provided during the public hearing, the Board approves the requested area variance for the increase of the pre-existing legally non-confirming garage. In making its determination, the Board finds that the benefit to the Applicants from granting the requested area variance outweigh any detriment to the community of neighborhood based on the following findings:

- 1) The area variance will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties for the following reasons:
  - a. The area variance, to permit the enlargement of the existing detached garage, is within the pre-existing building envelope and the building height is within the height permitted within the R-10 zoning district.
  - b. The area variance will not result in development closer to any lot line.
  - c. The proposed increase in building height is only 4.04 feet and does not exceed the permitted height is therefore not significant and will not impact adjacent owners due to existing vegetation on the property.
- 2) The benefit sought by the Applicants cannot be achieved by some method, feasible for the Applicants to pursue, other than the area variance for the following reasons:
  - a. The Applicantss are seeking relief to renovate the existing legally non-confirming detached garage for additional floor area to be used by the Applicantss.
  - b. Other means of achieving this same benefit within the garage are not possible without an area variance because Zoning Code Section 342-65 requires an area

variance for improvements to a pre-existing legal non-conformity despite its compliance with the Zoning Code's area and bulk regulations.

- 3) The area variance is not substantial for the following reasons:
  - a. The Project is building within a pre-existing non-conforming area of the detached garage.
  - b. The area variance is not substantial because it is only increasing the building height of the detached garage by 4.04 feet, which is under the height requirements applicable in the R-10 zoning district.
- 4) The area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:
  - a. The area variance is not creating any additional impervious surface.
  - b. The area variance will allow building within an existing pre-existing non-conforming area and does not exceed the building height requirements in the R-10 zoning district.
  - c. The Area Variance is a Type 2 action under SEQRA and therefore inherently does not have any significant environmental impacts.
- 5) The Board does find that the requested area variance is self-created, however, in balancing the factors that the Board is to consider, this consideration is given less weight because:
  - a. The Applicantss are building within a pre-existing nonconforming area.
  - b. The Applicantss are not increasing impervious surface on the property.
  - c. The proposed improvements are within the building height restrictions of the R-10 zoning district.
- 6) The Board finds that the requested area variance is the least intrusive request because it is building within a pre-existing nonconforming area, is not creating additional impervious surfaces and is within the building height requirements for the detached garage.

**[INSERT CONDITIONS]**

**BE IT FURTHER RESOLVED**, that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of ZBA member \_\_\_\_\_, seconded by ZBA member \_\_\_\_\_, the foregoing resolution was adopted with all ZBA members voting as follows:

**Robin Kramer, Chair**  
**Meg Yergin**  
**Gretta Heaney**  
**Abigail Roberts**

**David Neufeld**

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Robin Kramer, Chair, Zoning Board of Appeals

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Meg Yergin, Secretary, Zoning Board of Appeals

DATED: Mamaroneck, New York  
September 2, 2021

**AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, HELD ON JULY 22, 2021, THE FOLLOWING RESOLUTION WAS ADOPTED:**

**APPLICATION NO. 1A 2021**

Name: Simon Baigelman  
Premises: 506 Claflin  
District: R-15  
Tax I.D.: Section 9, Block 76, Lot 1

RECEIVED  
CLERK'S OFFICE  
2021 NOV - 1 P 3:45  
VILLAGE OF MAMARONECK  
NY NY 10604

**WHEREAS**, Simon Baigelman ("Applicant") has applied to this Board for an area variance granting relief from the side yard setback requirements in the Village of Mamaroneck Zoning Code Sections 324- Attachment 2 [Schedule of Minimum Requirements for Residential Districts] and 342-65 [Non-Conformity], which requires a 15 foot side yard setback where 11.1 feet is proposed (the "Area Variance"); and

**WHEREAS**, the Premises is within the R-15 zoning district and is currently improved with an existing single-family residences and related garage; and

**WHEREAS**, the Applicant provided an existing conditions survey of the Premises, dated January 26, 2021, indicating that the existing garage is a pre-existing nonconformity and is 11.1 feet from the northern side yard, where 15 feet is required; and

**WHEREAS**, the Applicant has proposed a second story addition over the existing non-confirming garage, which includes increasing the floor area of the garage in the area of the existing non-conformity; and

**WHEREAS**, the proposed addition over the garage does not extend further into the side yard setback than the existing conditions; and

**WHEREAS**, Zoning Code Section 342-65 states that "[a] variance from the Zoning Board of Appeals shall not be required for an addition to, enlargement or expansion of any such building unless the proposed alteration increases or expands the existing nonconformity of the building or creates new nonconformities[]"; and

**WHEREAS**, the addition over the pre-existing garage increases the amount of floor area within the required side yard setback and therefore an area variance is required from this Board; and

**WHEREAS**, the Board considered the Applicant's request for an area variance during two duly noticed public hearings on April 1, 2021 and May 6, 2021 and received and considered comments from members of the public; and

**WHEREAS**, the Board closed the public hearing on May 6, 2021; and

**WHEREAS**, the Board deliberated on the application at its June 3, 2021 and July 22, 2021 public meeting; and

**WHEREAS**, in furtherance of the application, the Applicant submitted materials for the Board to consider, which included but were not limited to a survey, site plans, elevations and architectural elevations and floor plans, and pictures of the landscaping in the vicinity of the area variance request; and

**WHEREAS**, the height of the proposed improvements to the garage do not exceed the permitted height in the R-15 Zoning District; and

**WHEREAS**, the proposed action is a Type II action pursuant to the New York State Environmental Quality Review Act ("SEQRA").

**NOW, THEREFORE BE IT RESOLVED**, that, after duly considering the Application and the Applicant's materials and information provided during the public hearing, the Board approves the requested side yard area variance permitting the garage to be expanded above the existing structure 11.1 feet from the side yard lot line. In making its determination, the Board finds that the benefit to the Applicant from granting the requested area variance outweigh any detriment to the community or neighborhood based on the following findings:

- 1) The Area Variance will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties for the following reasons:
  - a. The requested area variance, to permit a second story over the existing garage, is within the pre-existing building envelope and the building height is within the height permitted in the R-15 zoning district.
  - b. The Area Variance will not result in development closer to the northern side yard than currently exists.
  - c. Landscaping is provided along the northern lot line where the area variance request is being sought.
  - d. The expanded garage is consistent with other residences in the neighborhood.

- 2) The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the Area Variance for the following reasons:
  - a. The Applicant is seeking to develop additional floor area above the garage to be utilized as living space.
  - b. By placing the additional floor area over the existing garage it avoids additional ground disturbance and additional impervious surfaces.
  - c. The Applicant had demonstrated that a second story above the main house would pose greater structural challenges and any new stair location will disrupt the usability of the open floor plan.
  - d. An addition over the existing bedroom to the east would also require a variance.
  - e. The Area Variance is not substantial because it is within a pre-existing non-conforming area and does not decrease the distance of the yard that exists between the existing structure and the northern lot line.
- 3) The Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:
  - a. The Area Variance does not result in the creation of any additional impervious surface.
  - b. The Area Variance would allow a building within an existing pre-existing non-conforming setback that does not exceed the building height requirements in the R-15 zoning district.
  - c. The Area Variance is a Type 2 action under SEQRA and therefore inherently does not have any significant environmental impacts.
- 4) The Board does find that the requested area variance is self-created, however, in balancing the factors that the Board is to consider, this consideration is given less weight because:
  - a. The Applicant is building within a pre-existing nonconforming area.
  - b. The Applicant is not increasing impervious surface on the lot.
- 5) The Board finds that the request area variance is the least intrusive request because it is building within a pre-existing nonconforming area, is not creating additional impervious surfaces, is within the building height requirements, and landscaping exists along this northern lot line.

**BE IT FURTHER RESOLVED**, that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

On the motion of ZBA member **YERGIN**, seconded by ZBA member **ROBERTS**, the foregoing resolution was adopted with all ZBA members voting as follows:

<b>Robin Kramer, Chair</b>	<b>YES</b>
<b>Meg Yergin</b>	<b>YES</b>
<b>Gretta Heaney</b>	<b>YES</b>
<b>Abigail Roberts</b>	<b>YES</b>
<b>David Neufeld</b>	<b>YES</b>

  
\_\_\_\_\_  
Robin Kramer, Chair, Zoning Board of Appeals

  
\_\_\_\_\_  
Meg Yergin, Secretary, Zoning Board of Appeals

DATED: Mamaroneck, New York  
July 22, 2021

AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF  
MAMARONECK, HELD ON JULY 22, 2021, THE FOLLOWING RESOLUTION WAS  
ADOPTED:

**APPLICATION NO. 5A 2021**

Name: Christie Derrico  
Premises: 413 Soundview Avenue  
District: R-5  
Tax I.D.: Section 9, Block 76, Lot 1

RECEIVED  
CLERK'S OFFICE  
2021 NOV 10 A 11:13  
VILLAGE OF MAMARONECK  
NEW YORK

**WHEREAS**, Christie Derrico ("Applicant") has applied to this Board for an area variance granting relief from the Village's Zoning Code related to side yard setbacks and accessory structure building height to construct an addition to an existing two-car detached garage and expand the driveway to connect the garage to the street (the "Project"); and

**WHEREAS**, the Premises is within the R-5 zoning district and is currently improved with an existing single-family residence and related garage in an entirely separate building; and

**WHEREAS**, the Applicant provided an existing conditions survey, dated February 3, 2021, showing that the existing garage has a pre-existing non-conformity along the eastern property line of 4.5' (side yard) and the southern property line of 3.3 feet (rear yard), where 6' is required; and

**WHEREAS**, the Project will result in an increase of the height of the garage from 14.6 feet to 16.6 feet, where a 20 foot building height is permitted for the accessory garage.

**WHEREAS**, the proposed addition over the garage does not extend further into the side yard or rear yard setbacks than the existing conditions; and

**WHEREAS**, the Applicant is seeking to extend a portion of the existing driveway to the existing detached garage so that the garage may connect to the street; and

**WHEREAS**, Zoning Code Section 342-65 states that "[a] variance from the Zoning Board of Appeals shall not be required for an addition to, enlargement or expansion of any such building unless the proposed alteration increases or expands the existing nonconformity of the building or creates new nonconformities[]"; and

**WHEREAS**, the Project is an increase the floor area within the required side yard and rear yard setbacks and therefore an area variance is required from this Board; and



**WHEREAS**, the Board considered the Applicant's request for an area variance during a duly noticed public hearing on May 6, 2021 and received and considered comments from members of the public, many of which were in support of the Project; and

**WHEREAS**, the Board deliberated on the application at its June 3, 2021 and July 22, 2021 public meetings; and

**WHEREAS**, in furtherance of the application, the Applicant submitted materials for the Board to consider, which included but were not limited to a survey, site plans, elevations and architectural elevations and floor plans, and pictures of the landscaping in the vicinity of the area variance request; and

**WHEREAS**, the proposed height of the proposed improvements to the garage are compliant with the permitted height in the R-5 Zoning District; and

**WHEREAS**, the proposed action is a Type II pursuant to the New York State Environmental Quality Review Act ("SEQRA").

**NOW, THEREFORE BE IT RESOLVED**, that, after duly reviewing the Applicant's materials and information provided during the public hearing, the Board approves the requested area variance permitting the garage to be improved 4.2 feet from the eastern property line (side yard) and 3.3 feet from the southern property line (rear yard). In making its determination, the Board finds that the benefit to the Applicant from granting the requested area variance outweigh any detriment to the community of neighborhood based on the following findings:

- 1) The area variance will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties for the following reasons:
  - a. The requested area variance, to permit additional storage area within the existing garage is within the pre-existing building envelope and the building height is within the height permitted within the R-5 zoning district.
  - b. The area variance will not result in development closer to the eastern or southern side yards than what currently exists.
  - c. Landscaping is provided along the northern lot line where the area variance request is being sought.
  - d. The area variance is consistent with other residences in the neighborhood.
  - e. The Board was given multiple letters in support of the Project from nearby neighbors.

- 2) The benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than the Area Variance for the following reasons:
  - a. There is no driveway currently connecting the existing garage to the street. Applicant is seeking to construct an addition onto an existing garage for additional storage area and to connect the detached garage to the existing driveway.
  - b. The Applicant is not creating any additional non-conformities than what current existing on the Premises.
  - c. The additional floor area being sought is best located within the existing garage to avoid additional structures on the Premises of the expansion of the single-family residential home, which is closed to Soundview Avenue.
- 3) The area variance is not substantial for the following reasons:
  - a. The Area Variance is building within a pre-existing non-conforming area. The Project also proposes an addition to the front of the existing garage, however, all construction in the front of the existing garage is compliant with the Zoning Code.
  - b. The area variance is not substantial because the proposed addition to the garage is under the height requirements applicable in the R-5 zoning district.
- 4) The area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district for the following reasons:
  - a. The area variance is building within an existing pre-existing non-conforming setback and does not exceed the building height requirements in the R-5 zoning district.
  - b. The area variance is a Type 2 action under SEQRA and therefore inherently does not have any significant environmental impacts.
  - c. The Board received several letters of support for the Project from nearby property owners.
  - d. The proposal does seek to increase the impervious surface coverage on the Premises by 1,569 square feet to connect the detached garage. However, such an increase in impervious surface is compliant with the Zoning Code.
- 5) The Board does find that the requested area variance is self-created, however, in balancing the factors that the Board is to consider, this consideration is given less weight because:
  - a. The Applicant is building within a pre-existing nonconforming area.
  - b. The proposed improvements are within the building height restrictions of the R-5 zoning district.
  - c. The Board received letters in support of the Project from nearby landowners.
- 6) The Board finds that the request area variance is the least intrusive request because it is building within a pre-existing nonconforming area, is within the building height requirements, and landscaping exists along this northern lot line.

**BE IT FURTHER RESOLVED,** the Applicant shall comply with all rules and regulations set forth in Village of Mamaroneck Code, Chapter 294 related to Stormwater Management and Erosion and Sediment Control.

**BE IT FURTHER RESOLVED,** that to limit the impact of the area variance on the environment and total disturbance of the project, the proposed driveway addition shall be pervious surface as defined by the Village Code.

**BE IT FURTHER RESOLVED,** that the Board directs that a complete copy of this resolution be filed with the Village Clerk in compliance with New York State Village Law.

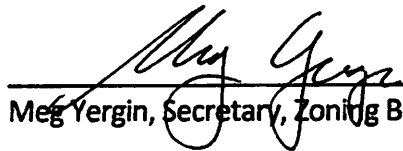
On the motion of ZBA member **ROBERTS**, seconded by ZBA member **YERGIN**, the foregoing resolution was adopted with all ZBA members voting as follows:

<b>Robin Kramer, Chair</b>	<b>YES</b>
<b>Meg Yergin</b>	<b>YES</b>
<b>Gretta Heaney</b>	<b>Recused</b>
<b>Abigail Roberts</b>	<b>YES</b>
<b>David Neufeld</b>	<b>YES</b>



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Robin Kramer, Chair, Zoning Board of Appeals



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Meg Yergin, Secretary, Zoning Board of Appeals

**DATED:** Mamaroneck, New York  
July 22, 2021

AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK, HELD  
ON DECEMBER 3, 2020, THE FOLLOWING RESOLUTION WAS ADOPTED:

APPLICATION NO. 5A-2020

Name: Bryon and Ylorie Taylor

Premises: 600 Lorraine Street

District: R-5

Tax I.D.: Section 4, Block 18, Lot 15

WHEREAS, Bryon and Ylorie Taylor (the "Applicant") has appealed to this Board for five area variances from two notices of disapproval of the Building Inspector, the first dated June 15, 2020, and the second dated August 10, 2020, which stated that the proposed construction at 600 Lorraine Street (the "premises") is in violation of § 342-27 of the Code of the Village of Mamaroneck ("Village Code") where in the R-5 zoning district the minimum required side yard setback is 6' and the Applicant proposes 5.8'; and § 342-64A, a non-conforming use of buildings where a building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended, unless the use therein is changed to a conforming use and where the required combined side yard setback is 14' and the applicant proposes 8.5'; and §342-27 of the Village Code where the floor area ratio ("FAR") is 2,373 square feet and the Applicant proposes 2,818 square feet, and § 342-56 of the Village Code where the number of off street required parking spaces is 4 and the applicant proposes 2, and expansion of a non-conforming structure is not permitted under the Village Code; and

WHEREAS, after due notice, this Board opened a public hearing on the application on July 23, 2020, continued on September 10, 2020, continued on October 1, 2020 and closed the public hearing on November 5, 2020, at which all parties wishing to be heard were heard, and the Board received several unsolicited letters of support for the proposed construction; and

WHEREAS, in reviewing the application, the board determined that the lack of sufficient parking spaces was a preexisting, non-conforming condition and therefore no variance was needed as there was no expansion of the number of dwelling units in this property;

WHEREAS, the board also determined that no combined side yard variance was needed as there is no non-compliance with respect to combined side yard; and

WHEREAS, there were no speakers in opposition; and

WHEREAS, after duly considering all the proofs and evidence before it, this Board finds as follows:

**I. Area Variance #1 (Lesser Side Yard)**

WHEREAS, the Applicant applied for a variance from Village Code § 342-27 where in the R-5 zoning district the minimum required side yard setback is 6' and the Applicant proposes 5.8'; and

WHEREAS, This Board has engaged in a balancing test of several factors, which are set forth herein below, and upon weighing and balancing the compelling interests, has made a determination to grant the variance requested.

1. On a balancing of all the credible evidence, the Board finds:

- (a) There will not be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance as evidenced by several unsolicited letters of support;
- (b) The benefit sought by the Applicant cannot be achieved by some other method feasible for the Applicant, and it is the most logical extension of using the existing footprint and extending upward;
- (c) The requested variance is not substantial under the circumstances;
- (d) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (e) The alleged difficulty is self-created but is not of such a nature as to require denial, the proposed construction will be in the existing building footprint, and it was determined that the benefit to the Applicant outweighs any detriment, as outlined above, including any detriment to the health, safety or welfare of the community or the neighborhood.

3. The variance to be granted is the minimum variance necessary and adequate to provide the relief requested for the Applicant, and, at the same time, to preserve and protect the character of the neighborhood.

4. The Applicant is entitled to the variance requested.

**II. Area Variance #3 (Expansion of nonconforming structure)**

WHEREAS, the Applicant applied for a variance from §342-64 of the Village Code whereby a building or structure the use of which does not conform to the use regulations for the district in which it is situated shall not be altered, enlarged or extended, unless the use therein is changed to a conforming use, and any other alteration, enlargement or new

construction shall require a variance to be granted by the Board of Appeals; and

WHEREAS, this Board finds that the Premises is not an investment property, fits well into the existing neighborhood, is consistent in scale with nearby buildings, does not increase building height, and the proposed construction would not be relevant to the risk of the Premises reverting to a single family home, is consistent with the general residential nature of the community, no one from the neighborhood to the plan to extend this nonconforming use, it is sufficient in its current size to be used as a two family home, and the construction does not decrease the chance that it will revert to a conforming use; and

WHEREAS, the Board further finds as follows:

1. This Board has engaged in a balancing test of several factors, which are set forth herein below, and upon weighing and balancing the compelling interests, has made a determination to grant the variance requested.

2. On a balancing of all the credible evidence, the Board finds:

(a) There will not be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance as the physical appearance would be aligned with the size of other homes in the immediate vicinity, and is consistent with the residential nature of the neighborhood as evidenced by unsolicited letters of support from neighbors;

(b) The benefit sought by the Applicant cannot be achieved by some other affordable method feasible for the Applicant, and that the benefit for the applicant outweighs the detriment to the health, safety, and welfare of the community;

(c) The requested variance is not substantial as they are not increasing the footprint of the structure in order to extend this unpermitted use, they are not increasing the appearance of the size of the building in a significant way from the street, and it is not increasing the number of dwelling units, it is enlarging one of the dwelling units;

(d) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(e) The alleged difficulty is self-created but is not of such a nature as to require denial, and it was determined that the benefit to the Applicant outweighs any detriment, as outlined above, including any detriment to the health, safety or welfare of the community or the neighborhood.

3. The variance to be granted is the minimum variance necessary and adequate to provide the relief requested for the Applicant, and, at the same time, to preserve and protect the character of the neighborhood.

4. The Applicant is entitled to the variance requested.

### **III. Area Variance #4 (floor area ratio/FAR)**

WHEREAS, the Applicant applied for a variance from Village Code and in violation of §342-27 where the floor area ratio ("FAR") is 2,373 square feet and the applicant has requested a FAR of 2,728 square feet, which is smaller than the 2,818 square feet originally requested, in order to be closer in compliance with the permitted FAR; and

WHEREAS, after duly considering all the proofs and evidence before it, this Board finds as follows:

1. This Board has engaged in a balancing test of several factors, which are set forth herein below, and upon weighing and balancing the compelling interests, has made a determination to grant the variance requested.

2. On a balancing of all the credible evidence, the Board finds:

- (a) There will not be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties created by the granting of the variance as the increase in bulk of the building is not visible from the street it faces, and does not increase the footprint of the existing building;

- (b) The benefit sought by the Applicant cannot be achieved by some other method feasible for the Applicant;

- (c) The requested variance is not substantial under the circumstances;

- (d) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district as the building, even with the additional FAR, will not look out of place with the other buildings, and has received unto the committee letters of support; and

- (e) The alleged difficulty is self-created but is not of such a nature as to require denial, the proposed construction will be in the existing building footprint, and it was determined that the benefit to the Applicant outweighs any detriment, as outlined above, including any detriment to the health, safety or welfare of the community or the neighborhood.

3. The variance to be granted is the minimum variance necessary and adequate to provide the relief requested for the Applicant, and, at the same time, to preserve and protect the character of the neighborhood.

4. The Applicant is entitled to the variance requested.

NOW, THEREFORE, on motion of Meg Yergin, seconded by Abigail Roberts:

RESOLVED that in accordance with the vote of this Board taken on December 3, 2020 that the request for three variances is hereby granted, subject to the following conditions:

A. That any work done hereunder shall be in strict compliance with the plans as filed with this application, except as may be expressly modified by the conditions herein or as approved by the Building Inspector or any minor insignificant variations as approved by the building inspector, provided they do not increase the dimensions approved in the variances or otherwise create a new noncomplying condition..

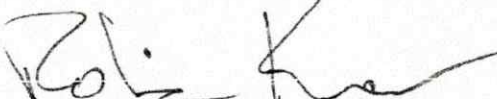
B. That the granting of this application shall not be deemed to relieve the Applicant of the need to obtain approval of any other board or agency or officer prescribed by law or ordinance with regard to the plans or construction or any other phase of the project.


C. That the Applicant shall procure a building permit from the Building Department within one (1) year where necessary to comply with federal, state, or local codes, laws, regulations or requirements and all work shall be completed within two (2) years from the date of the building permit, otherwise this application is revoked, and any request for extending the time within which to obtain said building permit shall be filed no less than sixty (60) days prior to the expiration of the applicable period.

D. That the failure to observe and perform these conditions shall render this resolution invalid.

Total Members:	5
Members Present:	5
Ayes:	3 (Heaney, Roberts, Yergin)
Nays:	2 (Dunaway, Kramer)
Abstain:	0
Absent:	0
Recused:	0
Vacancy:	0

Date Approved: December 3, 2020

By:   
Robin Kramer, Chair

By:   
Meg Yergin, Secretary