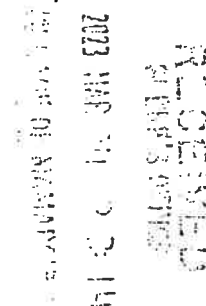


AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE VILLAGE OF MAMARONECK,  
HELD ON MARCH 2, 2023, THE FOLLOWING RESOLUTION WAS ADOPTED:

**APPLICATION NO. 23-AV-22**

Name: William J. Archer, Archer Property Management  
Premises: 412 Munro Avenue  
District: R-7.5  
Tax I.D.: Section 9, Block 15, Lot 282



**WHEREAS**, William Archer, Archer Property Management ("Applicant"), the managing agent for the hereafter described premises, has applied to the Zoning Board of Appeals ("Board") for area variance relief related to maximum building coverage and side yard setback for proposed improvements in connection with an expansion of an existing outdoor area for the benefit of the residents in the multifamily residence known as "The Heathcote Hill" at the above captioned premises ("Premises") with such improvements to include a new modular retaining wall along the property line ("Improvements"); and

**WHEREAS**, in connection with the Improvements, the following area variances are required:

- 1) **Building Coverage**: The Applicant seeks to increase the existing nonconforming building coverage of 38% by an additional 3.8% to 41.8% where 35% is permitted.
- 2) **Side Yard Setback**: The Applicant seeks a side yard setback of 0 feet where 8 feet is required. This requires an 8 ft. (100%) side yard setback area variance.

(collectively, the "Area Variances"); and

**WHEREAS**, the proposed action is classified as Type II pursuant to the New York State Environmental Quality Review Act ("SEQRA") regulations, 6 NYCRR §617.5(c)(12); and

**WHEREAS**, in support of the application, the Applicant submitted materials for the Board to consider ("Application Materials"), including but not limited to a survey of the Premises, proposed site plan, and an aerial photo and other pictures depicting existing conditions at and in the vicinity of the existing outdoor space at the Premises; and

**WHEREAS**, the Board considered the request for the Area Variances at a duly noticed public hearing opened on November 3, 2022, continued to December 29, 2022 and closed on January 5, 2023, at which the Applicant made a presentation and provided answers to questions posed by the Board and no public comments were received; and

**WHEREAS**, the Project does not include any changes to the existing buildings on the Premises but only represents a change in the retaining wall on the Premises;

**WHEREAS**, the Board deliberated on the application at its February 2, 2023 public meeting and requested preparation of a draft resolution for its consideration.

**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 Variances. 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 Variances will not result in an undesirable change to the character of the neighborhood or a detriment to nearby properties. The proposed Improvements will not be visible from Munro Avenue. Further, the adjacent properties to the Premises all have similar retaining walls with zero lot line setbacks.
- 2) The specific benefits associated with the proposed retaining wall cannot be accomplished by any other feasible means other than with the Area Variances. The expansion of this outdoor space requires a retaining wall, and retaining walls are "accessory structures" under the Zoning Code. The immediately adjacent property in the vicinity of the outdoor space has a similar retaining wall on the property line. The sloping topography on the Premises and in the immediate area necessitate the use of retaining walls to provide suitable, useable space.
- 3) The Board finds that the area variance related to the side yard setback is substantial at 100%. However, the area variance to increase in building coverage at the Premises is only 3.8%. While the Board finds that the side yard setback is substantial (100%), it is not for an increase in a building and the substantiality of this request is mitigated because the side yard of the Premises abuts another residential property with a similar retaining wall in place. The increase in lot coverage by 3.8% is necessary for the installation of the retaining wall which is considered a structure under the Zoning Code.
- 4) The Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because the Improvements are for the purpose of increasing the useable outdoor green space at the Premises and do not involve any increase in the primary structure. Further, the contiguous properties have similar walls in place already due to the topography in the area.
- 5) Although the Board does find that the requested Area Variances are self-created, in balancing the factors that the Board must consider, this conclusion is given less weight.

**BE IT FURTHER RESOLVED**, that, the granting of the Area Variances for the Improvements is conditioned on the following:

- 1) The Applicant shall obtain a building permit from the Village of Mamaroneck Building Department.
- 2) The Applicant shall complete construction within 18 months of the date of this Resolution unless an extension is otherwise granted by the Board.
- 3) The Improvements shall be constructed in compliance with the Application Materials and this Resolution, except for non-substantial revisions to the Improvements that may occur, but which shall not substantially 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 a motion by Board member Glattstein, seconded by Board member Neufeld, the foregoing resolution was brought before the full board for consideration with the Board members voting as follows:

<b>Robin Kramer, Chair</b>	<b>- YES</b>
<b>Gretta Heaney</b>	<b>- YES</b>
<b>Brian Glattstein</b>	<b>- YES</b>
<b>David Neufeld</b>	<b>- YES</b>
<b>Angelique Shingler</b>	<b>- Absent</b>

The motion was carried on a vote of 4-0 with one member absent

  
Robin Kramer, Chair, Zoning Board of Appeals

Dated: Mamaroneck, New York  
3/24, 2023