

Resolution of the Planning Board of the Village of Mamaroneck

Approving the Application of Robert Hassler for a Floodplain Variance at the property known as
850 Rushmore Avenue, Village of Mamaroneck

Moved by Seamus O'Rourke; Seconded by Richard Litman

Date: May 10, 2023

WHEREAS, an application was submitted by Robert Hassler (the "Applicant") for a floodplain variance pursuant to Chapter 186, Article I, Section 6 of the Code of the Village of Mamaroneck ("the Code") to perform a substantial improvement the existing single-family home at 850 Rushmore Avenue (Section 9, Block 97A, Lot 9), a 0.26-acre-lot in Zoning District R-15 and Flood Zone AE; and

WHEREAS, the existing lowest finished floor elevation is nonconforming, because it is 0.8 feet above the Base Flood Elevation (BFE), and Code currently requires a minimum elevation of two feet above the BFE; and

WHEREAS, the proposed improvements would expand the building footprint by 214 square feet, extend the garage area, create a second floor master suite, modify the basement area, and include installation of new roofing, siding and windows; and

WHEREAS, all newly proposed habitable space is located more than two feet above the BFE, and the proposed basement area would be modified to minimize the potential for flooding by blocking the exit and limiting its usage to storage and utilities which presently exist in that space; and

WHEREAS, the proposed project is a "substantial improvement" under the Code because its cost equals or exceeds 50% of the market value of the structure at the time of the improvement; and

WHEREAS, while the proposed improvements would be Code-compliant, the Code requires that substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood level; and

WHEREAS, a portion of the existing lowest finished floor is 0.8 feet above the BFE, and would have to be raised by 1.2 feet to comply with the Code requirement of being elevated to or above two feet above BFE; and

WHEREAS, such an improvement would represent a significant expense with no clear benefit during the 100-year storm event, since the floor elevation is now above the BFE and therefore, should not experience damage during a 100-year storm event at its present elevation; and

WHEREAS, the project complies with the Federal Emergency Management Agency's (FEMA) Regulations which recommends that the existing floor be at or above the BFE; and

WHEREAS, for the above stated reasons, in order to proceed with the improvements as proposed, the Applicant requires a floodplain variance from the Planning Board; and

WHEREAS, the application for the proposed work is on file at the Village Offices and consists of the following documents:

1. Memo to the Village of Mamaroneck Planning Board prepared by Brian Crowley Architecture, dated 4/5/2023 (“BCA Memo”),
2. Planning Board Application prepared by Brian Crowley Architecture, dated 4/5/2023,
3. Variance Consideration Memo, prepared by Brian Crowley Architecture, dated 4/5/2023,
4. Architectural Set (21 Sheets), prepared by Brian Crowley Architecture and dated 4/5/2023,
5. Flood Certification Letter from Richard Spinelli, Surveyor, dated 5/15/2012,
6. Building Permit Application prepared by Brian Crowley Architecture, dated 10/3/2022,
7. Comment Response Letter prepared by Catizone Engineering, dated 2/14/2023 (provided in response to Kellard Sessions Memo dated 11/28/2022),
8. Stormwater Pollution Prevention Plan prepared by Catizone Engineering, and last revised on 1/18/2023,
9. Building Determination Letter from Carolina Fonesca, Village Building Inspector, as revised 3/20/2023,
10. Survey prepared by Richard Spinelli, Surveyor, dated 5/15/2012, and
11. Board of Architectural Review Meeting Minutes from the Village of Mamaroneck, dated 11/2/2022;

WHEREAS, this Board is authorized by § 186-6(A)(1) of the Code to hear and decide requests for variances from the requirements of Chapter 186; and

WHEREAS, of the Code requires that in determining an application for a variance under Chapter 186, this Board consider “all relevant factors,” which include:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, where applicable;
- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
- (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges. § 186-6(A)(4); and

WHEREAS, that this Board may grant a variance under Chapter 186 only upon a written showing of good and sufficient cause by the applicant, that “failure to grant the variance would result in exceptional hardship to the applicant;” and that “the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.” § 186-6(A)(6); and

WHEREAS, the Board’s engineering consultant, Kellard Sessions, reviewed the site plan and supporting documents submitted with the application, and provided comments in a memorandum dated April 20, 2023 with regard to the flood damage prevention regulations, and during the May 10, 2023 meeting, stated that the Applicant’s engineer had addressed all outstanding comments; and

WHEREAS, bringing the pre-existing basement into compliance with the Code would unduly burden the Applicant, the proposed construction would not increase the risk of flooding, and the proposed improvements are Code-compliant; and

WHEREAS, the Board’s planning consultant, AKRF, reviewed the application materials and in a memorandum dated April 21, 2023, noted that the Applicant addresses the floodplain variance requirements of § 186-6(A)(4) in its April 5, 2023 Variance Considerations Memo, noted the pre-existing non-conformity, and recommended that the Planning Board classify the project as Type II pursuant to SEQRA § 617.5(c)11, and subsequently noted in its memorandum of May 5, 2023 that the Applicant had addressed its comments; and

WHEREAS, on May 10, 2023, the Planning Board thoroughly reviewed the application materials according to the standards for a floodplain variance in Chapter 186, Article I, Section 6, and the advice provided by the Planning Board’s consultants, and upon consideration of the applicable standards and criteria determined that its review of the Application is complete, and that the granting of a variance would not result in increased flood heights, threats to public safety or any other significant negative impact per the considerations of village code section 186-6(A) and would cause an undue hardship to the Applicant by limiting their ability to perform the proposed substantial improvement should the variance be denied; and

NOW, THEREFORE, BE IT RESOLVED that the Application is a Type II action pursuant SEQRA regulations found at 6 NYCRR § 617.5(c)(11) which provides that the “construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including

provision of necessary utility connections..." are Type II actions under the New York State Department of Environmental Conservation regulations; and

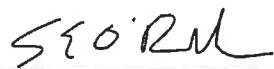
BE IT FURTHER RESOLVED that the Board hereby grants the floodplain variance subject to the following conditions:

Conditions

- 1) Any necessary tree root pruning shall follow the ANSI A300 Tree Care Industry Standards.
- 2) All demolition materials shall be removed from the project site and disposed of in accordance with Federal, State and Local Regulations.
- 3) Prior to the issuance of a Certificate of Occupancy, applicant shall submit a fully executed maintenance agreement approved by the Village for the proposed stormwater management facilities which is binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property.

Vote

Yes: S. O'Rourke, M. Call-Chinn, and R. Litman
Recused: W. Bintzer and C. Goldstein



Seamus O'Rourke, Chair

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CLERK OF THE BOARD
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