

BOARD OF APPEALS

RUTHERFORD HALL  
VILLAGE HALL  
SCARSDALE, NY  
March 11, 2020

A regular meeting of the Board of Appeals of the Village of Scarsdale was held in Rutherford Hall in Village Hall on Wednesday, March 11, 2020 at 8:00 p.m.

Those members present were Jeffrey Watiker, Chair, Amy Cooper, Jeremy Gans, and Barry Meiselman. Steve Pass was absent. Also present were Village Attorney, Daniel Pozin, Village Planner, Elizabeth Marrinan, Building Inspector, Frank Diodati and Shelby Miller, assistant to the Village Planner.

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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 Shelby Miller at Village Hall tomorrow at 722-1137. Also, tomorrow the decisions will be posted on the web at [www.scarsdale.com](http://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.

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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 Rutherford Hall in Village Hall, 1001 Post Road, Scarsdale NY

10583 on **Wednesday, March 11, 2020** at 8:00 p.m. at which time and place the Board of Appeals will consider the following:

1. The application of Ruth and Andrew Suzman for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 3 Reimer Road, identified on the Village tax map as Sec. 14, Blk. 4, Lot 19.
2. The application of Tawako and Roberto Ribeiro for variances from Chapters 310-35 and 310-67 of the Village Code to construct an addition which would expand the existing intrusion into the required front yard setback at 40 Farley Road, identified on the Village tax map as Sec. 6, Blk. 3, Lot 7A.

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](http://www.scarsdale.com) and click on "Notify Me" to subscribe.

By Order of the Board of Appeals, Scarsdale, New York, dated February 25, 2020.  
Elizabeth Marrinan, AICP, Village Planner.

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CASE #4 OF 2020

1. The Chair declared the hearing open on the application of Ruth and Andrew Suzman for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 3 Reimer Road, identified on the Village tax map as Sec. 14, Blk. 4, Lot 19.

Ms. Ryna Lustig, landscape architect, and Ms. Ruth Suzman, owner, were present.

Ms. Lustig said we are reporting back after the last meeting when we were asked to add more evergreen screening. As you can see in our revised drawing, we are adding additional screening that is 5-6 feet high. We did not choose to remove any of the white pines that are along the edge of the property but will supplement them. There was a concern about planting below the drip line of the white pines. The new plantings will be farther away to make sure they get sun. There was also mention of the gate between the two properties so we did include that. In addition the outdoor lighting will be revisited because the existing lighting is obsolete as it is up-lighting trees that are no longer there. The owners have been in touch with the neighbors.

The Chair asked for clarification about the Yews included on the plant list which are less than 5 ft. Ms. Lustig said the shorter Yews are not being used for the pool screening and pointed out those Yews on the plant list which are pool screening.

No members of the Board desired to speak, and with no comment from the audience, the Chair closed the hearing.

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CASE #7 OF 2020

2. The Chair declared the hearing open on the application of Tawako and Roberto Ribeiro for variances from Chapters 310-35 and 310-67 of the Village Code to construct an addition which would expand the existing intrusion into the required front yard setback at 40 Farley Road, identified on the Village tax map as Sec. 6, Blk. 3, Lot 7A.

Ms. Mary Scott, architect and Ms. Tawako Ribiero, owner, were present.

Ms. Scott said we are here to request a front yard variance. The house was built in 1927 with a very tiny entry. What we are requesting is an addition for a vestibule and covered portico. The original 1927 drawing shows a covered entry but we are not sure if it was ever built. We feel this design helps the function of the house. It has very little impact and improves the house architecturally.

The Chair asked how the size of the indoor and outdoor spaces were determined. We want to make sure there is a need for this size of an addition. Ms. Scott said the indoor space is 48 sq. ft. to accommodate a small foyer and closet away from the stairs. The proposed 38 sq. ft. covered porch will provide protected access to the house. It is the same width as the addition and it will soften the front elevation.

Mr. Gans asked if there was any evaluation of neighboring houses. Ms. Scott said no, it is on a short block. The house is sited at a slight angle to the street and there is a lot of landscaping which shields the view.

Ms. Cooper asked if this is the minimum that could be built. Ms. Scott said yes.

No members of the Board desired to speak, and with no comment from the audience, the Chair closed the hearing.

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CASE #4 OF 2020

1. Ruth and Andrew Suzman  
3 Reimer Road  
Sec. 14, Blk. 4, Lot 19  
Special Use Permit to construct a swimming pool

The Board considered the application of Ruth and Andrew Suzman, Case #4 of 2020, for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 3 Reimer Road 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) (12) 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 listed in the Assessor's records as 1.10 acres and 47,909 sq. ft. on the lot coverage form and is improved with a house built in 1920; 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 a swimming pool and associated equipment, landscaping and fencing; and
- WHEREAS: The pool and pool equipment appear to meet the required setbacks and the project appears to meet the lot coverage requirements with the removal of a certain portion of the macadam driveway and its replacement with gravel; and
- WHEREAS: The pool landscaping relies on both existing and proposed plantings; and
- WHEREAS: The Board discussed the application at the February 5, 2020 meeting and held the matter over pending clarification of the proposed landscaping and screening; and
- WHEREAS: The applicant submitted revised plans which increased the amount and size of certain proposed plantings; 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, Ruth and Andrew Suzman, Case #4 of 2020, for a Special Use Permit, pursuant to Chapter 310-88 of the Village Code, to construct a swimming pool at 3 Reimer Road, as shown on the Landscape Plan dated revised 2/7/2020 and the Stormwater Pollution Prevention Plan dated revised 1/30/2020, 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 and retaining walls shall be constructed as represented to the Board at the meeting and on the approved plans.
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 in the pool house as represented on the plans.
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 and a Tree Removal Permit are required and shall include methods and plans for tree conservation, preservation and replacement. The soil erosion control and tree protection measures shall be in place prior to the issuance of a Building Permit.
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 #7 OF 2020

2. Tawako and Roberto Ribeiro  
40 Farley Road  
Sec. 6, Blk. 3, Lot 7A  
Variances to construct an addition which would expand the existing intrusion into the required front yard setback

The Board considered the application of Tawako and Roberto Ribeiro, Case #7 of 2020, for variances from Chapters 310-35 and 310-67 of the Village Code to construct an addition which would expand the existing intrusion into the required front yard setback at 40 Farley Road 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 granting of an area variance for a single-family house, is a Type II action pursuant to 6 NYCRR 617.5(c) (16) and no further environmental review is required pursuant to said regulations; and

WHEREAS: The property, located in the A-3 (10,000 sq. ft.) zoning district, is listed as .17 acres and 7,504 sq. ft. in the Assessor's records and 7,141 sq. ft. on the lot coverage form and is improved with a house built in 1927 and an attached garage built in 1949; and

WHEREAS: In 1992, the Board of Appeals legalized the garage which intruded into the side yard setback and the enclosed porch which intruded into the rear yard setback; and

WHEREAS: Chapter 310-35 of the Village Code regulates the required front yard setback to 30 ft. in the A-3 zoning district; and

WHEREAS: Chapter 310-67 of the Village Code prohibits the expansion of nonconformities; and

WHEREAS: The plans and the application materials show the proposed removal of an existing concrete terrace and the construction of a small entry addition and covered porch at the front door; and

WHEREAS: The front yard setback required when the house was built in 1927 was 15 ft. for the ground floor and 30 ft. for the stories above; and

WHEREAS: The existing house is set back 29.95 ft. on one side and 30 ft. on the other; and

WHEREAS: The proposed 48 sq. ft. entry area is to accommodate a small foyer and closet and the proposed 38 sq. ft. covered porch will provide protected access to the house; and

WHEREAS: The proposed front yard setback is 20.9 ft. where 30 is currently required for a requested variance of 9.1 ft. or 30%; and

WHEREAS: The proposed project appears to meet the building and lot coverage and FAR requirements; and

WHEREAS: The Board members have visited the site and are familiar with the materials in the application; and

WHEREAS: The Board members considered the criteria for granting area variances pursuant to New York State Village Law Section 7-712 (b) and conducted the appropriate balancing test as required therein, weighing the benefit to the applicant against the detriment to the neighborhood or the community; now therefore be it

RESOLVED: That the application of Tawako and Roberto Ribeiro, Case #7, for a variance from for variances from Chapters 310-35 and 310-67 of the Village Code to construct an addition which would expand the existing intrusion into the required front yard setback at 40 Farley Road, as shown on Plan A-1 dated 2/6/2020, be approved based on the following findings:

1. The requested variance may create an undesirable change in the character of the neighborhood as it appears that there are no other houses on this small block which intrude into the front yard setback; however the design of the addition and porch help mitigate the impact.
2. The benefit sought by the applicant, namely to construct an entry addition and covered porch, is not feasible given the irregular shape of the lot and the location of the house on the site.
3. While the requested variance of 9 ft. or 30% may appear substantial, the addition and covered porch are not wide and total 88 sq. ft. which minimizes the variance.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

5. The requested variance may be self-created, as the owner purchased the property as is; however this is outweighed by the findings above, in particular the irregular shape of the lot and the siting of the house.

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Upon motion duly made and seconded, the minutes of the February 5, 2020 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 1, 2020, at 8 p.m.

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The meeting was adjourned at 8:30 p.m.

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Shelby Miller  
Assistant to the Village Planner