

**Village of Airmont
Zoning Board of Appeals
Village Hall
Thursday, November 12, 2015**

MEMBERS PRESENT: MARTIN KIVELL, ACTING CHAIRMAN
LAURIE DIFRANCESCO
CHARLES PICARELLI
ARTHUR KATZ
RICHARD SCHONBERG
PETER BLUNNIE, AD HOC

MEMBERS ABSENT: MICHAEL BERNSTEIN, CHAIRMAN

OTHERS PRESENT: DAN KRAUSHAAR, DEPUTY VILLAGE ATTORNEY
SUZANNE CARLEY, CLERK

The meeting was called to order by Acting Chairman, Marty Kivell at 8:00pm which was followed by the pledge of allegiance and roll call. The Acting Chairman appointed Richard Schoenberg a voting member for the evening. Laurie DiFrancesco made a motion to approve the September 10, 2015 meeting minutes which was seconded by Arthur Katz. All in favor and the motion carried.

**Meir & Shoshawa Klein
41 Besen Parkway**

Acting Chairman Kivell read into the record the public hearing notice on the application of Meir & Shoshawa Klein. The applicants and their representative, Attorney Ken Moran was sworn in by Acting Chairman Kivell.

Ken Moran indicated that this is a very straightforward application. The applicant wishes to add to their single family residence. The front entrance has the ability to install two closets in the main entrance area and that's the section that requires a very small variance of 2' 7". He noted that the applicant applied to the Airmont ZBA for variances from Article III Section § 210-17 of the Zoning Local Law of the Village of Airmont:

	Required	Provided
Front Yard	35'	32' 5"

They would be encroaching on the front by 2' 7".

The variance is small however there is a large addition in the rear of the property that does not require a variance. Ken showed how a neighbor also has the same bump out in the front as well. Both the Clerk and Ken checked on the neighbors' property and did not find any variances.

Ken Moran shared plans with the ZBA to show the addition on the front. They looked at the existing building lines and road frontage stoops. They will be adding a concrete stoop.

Laurie DiFrancesco questioned if the road frontage is included in the variance being requested. Ken Moran indicated its encroaching on the front by 2 ft. 7 inches. Laurie DiFrancesco wanted to know if the variance is also for the stoop. Mr. Klein noted it's a small stoop with one or two steps. Ken Moran noted that they need the variance for the proposed addition and that they need the closets in that area. Ken Moran indicated the stoops need to be pushed forward to accommodate the closets. Marty Kivell noted that it's 35" from the street line. Charles Picarelli asked why the porch is showing 26.5 ft. The porch is actually the stoop area.

Ken Moran also advised that this variance will have no adverse impacts to the neighborhood or the environment in the area. He noted he is going by what the Building Inspector advised.

Dan Kraushaar noted that if it turns out they need a greater variance they will need to come back to the ZBA. He also noted that the Building Inspector needs to review. Ken Moran stated that's how he made the determination and why the Klein's are in front of the ZBA going by Ian's letter. The variances are for the addition of the entry so that it extends 2.3 feet into the front yard setback.

Acting Chairman Kivell opened the Public Hearing at 8:23pm.

Mr. Bikell 42 County Road was sworn in by Acting Chairman Kivell. Mr. Bikell indicated that the request seems simple, that Mr. Klein is not requesting much and feels this variance should be approved. No one else spoke.

The Acting Chairman Kivell closed the Public Hearing at 8:25pm

Noted for the records that:

Arthur Katz made a motion that the application is a Type II action for SEQR and is precluded from further environmental review. Laurie DiFrancesco seconded the motion.

The motion to grant approval of the Application of Meir & Shoshana Klein for the following variances was moved by Ms. DiFrancesco and seconded by Mr. Katz:

	Required	Provided
Front Yard	35'	32' 5"

This approval is granted subject to the following conditions:

- receipt of a GML from the Rockland County Planning Board following conditions
- In the event that a further variance is required, the applicant is to return to the Village of Airmont ZBA to seek that relief.

The Roll Call Vote for the record:

Laurie DiFrancesco Aye - based on affecting the neighborhood appeal and will line up with other homes for a minimal variance request

Charles Picarelli Aye - it's a minimum amount of variance for enhancing the usability & convenience of the house; no other means for the applicant to build and can't acquire additional land to accommodate

Arthur Katz Aye- nice addition, important for the future of the neighborhood

Richard Schonberg Aye - helps the neighborhood

Martin Kivell, Acting Chairman Aye - for all the above mentioned reasons; no negative impact; the request is minimal

For the record the following findings of fact were made:

- The property is located in an "R-25" zoning district.
- The property is located at 41 Besen Parkway and consists of .6 acres.
- The Applicant has applied for the construction of a two-story addition to an existing single-family residence.
- The property consists of a one family dwelling which is existing and non-conforming.
- The proposed addition to the entry is similar to the one located on the adjoining lot.
- The Applicant is also proposing an addition to the rear of the house which does not require a variance.

For the record the following conclusions of law were discussed in reference to the area variance:

- The front yard variance requested of 2' – 7" is not substantial and will not affect the neighboring properties during any time. There is no undesirable change.
- The house is almost identical to the existing neighbors.
- The property is located in the single-family zone
- There is no adverse effect on the physical and environmental character of the neighborhood.
- There is no undesirable change to the neighborhood as the Applicant will be utilizing the property as such.

All in favor and the motion carried unanimously.

Backenroth
11 Plymouth Place

Acting Chairman Kivell read into the record the public hearing notice for the application of Abraham Backenroth. This application is represented by his attorney Ryan Karben. The Acting Chairman swore in Mr. Karben.

Ryan Karben explained that this property is a slightly over sized lot on a cul de sac. A garage is being proposed is a one car garage but the code requires 2 garages in this instance. The eastern side of driveway has been built out and extended and prior to the current owner and did not require a variance from the prior owner.

Laurie DiFrancesco asked if there were floor plans of the space and what the space is currently being utilized as.

Ryan Karben – the proposed side setback is 44’ 8’’ therefore a 5’4’’setback variance is required. They are proposing to leave the existing stonewall and there is dense shrubbery so you cannot see from one property owner to the other. A variance is also required to go from two garages to one garage as proposed.

The home to the left of this is larger and the homes are of varying sizes. No adverse effects by the home being slightly large. Another neighboring property has a circular driveway so there are varying ways cars are on the block. These requested variances will not impact the area but would benefit the homeowners. The homes are of varying sizes.

For the record they have submitted:

- A Narrative
- An Application
- A short form EAF
- Provided a 1 car garage on the lot

Ryan noted that a .58 acre lot will not cause any adverse impact to neighborhood. They are currently utilizing the two car garage for additional living space.

Dan Kraushaar noted that the requirement to have 2 garages actually makes the applicant closer to complying with the code by adding one garage where there is none.

Ryan Karben noted that the existing living room expands through two prior existing garages.

Acting Chairman Kivell asked if he asking for a variance after the fact. He also asked what kind of architectural style the home is. Ryan Karben responded it’s a colonial.

Dan Kraushaar asked when the client purchased the home. Ryan Karben back 9/27/13. When he purchased the house the extra-large driveway was there. Dan asked when the changes to the garage done were.

Ryan Karben indicated the applicant was cited by the Building Inspector in January or February 2015 led to the application in response to the citation. He does not know when the change from garage to living space was actually done.

Marty Kivell asked if this is a request to not replace a garage. It looks as though the driveway is larger than usually but they do not have anything in front of them to review. Do we have the building plans to see the use. The ZBA needs to see them. Ryan Karben indicated that architectural plans were submitted to the building department.

Acting Chairman Kivell asked Dan Kraushaar wouldn't it be better to consider the request with actual building plans.

Ryan Karben indicated that he would get a set of the architectural plans for the ZBA.

Laurie DiFrancesco wanted to know where the garage comes off the house. Ryan Karben indicated they are right there on the same floor. Laurie wanted to know if the additional is residential space. Ryan Karben confirmed that it is not. Laurie needs to see the actual proposed plan. Ryan Karben confirmed that it was not a compliant plan so they were denied a building permit for a CO.

Laurie DiFrancesco stated that from a building standpoint you are proposing an 11" wide additional garage off the same black top since the home now has two garages that they were supposed to keep. Are the houses in this neighborhood two car garages due to size and structure or a combination of one and two car garages? Was a tandem garage looked into if the neighborhood typically has two car garages? Ryan Karben indicated that they would look into it and will provide all the information about the neighborhood she is requesting

Dan Kraushaar asked the number of cars in the family. Ryan Karben responded two cars.

Richard Schonberg noted that the property was big enough to initially have two car garages to begin with so there may be room for a tandem garage.

Ryan Karben will provide the following to the Board as requested:

- Dimensions of the driveway
- Building plans for the conversion of the residential space
- Square footage of the home
- Structure of the property
- Pictures of the home and neighborhood

Acting Chairman Kivell – The living space has replaced the garage space. The living space may be a problem with fire & safety.

Dan Kraushaar -Are there any garage doors that continue to exist. Dan also asked if any other garage doors look like garage doors. The Fire Department will want it to look residential. If it still looks like a garage it is a concern.

Ryan Karben indicated that the current exterior has old doors and those will be replaced as this was pointed out by the Building Inspector to the applicant.

Laurie DiFrancesco would also like to see current photos; no building plans have been submitted and definitely would like to see the dimensions of the driveway.

Acting Chairman Kivell opened the public hearing at 8:54pm. Laurie DiFrancesco seconded it.

Darren Riken- 9 Plymouth Place was sworn in by Acting Chairman Kivell. He lives immediately adjacent and most affected by the extensions. He does not feel it will adversely affect him or the neighborhood; feels it is a small variance for the side yard and there is dense shrubbery. He is fine with the request. He would not be adverse to a tandem garage either.

Ronald Goldstein -12 Besen Parkway was sworn in by the Acting Chairman. Lives behind the property and there is a big thick stone wall and can't even see through it even in the winter with the trees. This request will not have any affect to him sight wise. It sounds as though it is something the applicant needs and does not affect them in any way. He is for it.

Samuel Mermelstein - 40 N. County Road was sworn in by Acting Chairman Kivell. Thanked the Board for protecting the character of the neighborhood. Right behind Plymouth Place. He has a 5000 sq. feet home and only has one car garage which has worked well. It was built in 2006-2007 prior to the change in the code. He has no problem with a one car garage in the neighborhood and feels it will not affect the neighborhood in anyway.

Charles Morsel – 7 Plymouth Place sworn in by Acting Chairman Kivell. Feels the drive way is wide enough to fit multiple cars. He has never had an issue with him or the former owner.

Darren Rikell – 42 New County Road was sworn in by Acting Chairman Kivell. Corner house on Plymouth and moved in April 2005. Likes the character of the neighborhood understands that many have large families need more living space and does not understand why the Board needs to know what is inside the home is if the only issue is a variance.

Arthur Katz explained that it is relevant to figure out when this became an illegal conversion.

Acting Chairman Kivell explains that it is a municipal ordinance if you take a garage and convert it to living space then the garage space needs to be replaced. If this was not the law then the homeowner would only be here for a setback variance.

Dan Kraushaar explains that as a ZBA Application the building department consults with the Zoning ordinance. You have a right as a property owner to state your case whether you are for or against it.

Dan Kraushaar – the reason this application is here is because either he or the prior owner apparently illegally converted the garages to existing living space. He is also asking for a garage where there were already previously two garages and asking before it was done. Therefore both need to be legalized and they are asking for something to be added that was originally there before.

Darren Rankin noted that he fully understands the requirement to make clear enforcement of a garage for the block and the neighbors to consider. Almost the entire block of Plymouth Place is here but 2 members so he doesn't understand why they need to come again. Dan Kraushaar noted that they are already on record if they are unable to come again to a ZBA meeting.

Acting Chairman Kivell noted it is a request of the ZBA to get additional information to make an informed decision to do their job as a ZBA. They do not have everything they need to make a final decision.

Ryan Karben noted he is happy to provide all the information requested to the ZBA.

Arthur Katz made a motion to continue the public hearing until 12/10/15 at 8pm at Village Hall. Laurie DiFrancesco seconded it. All in favor and the motion carried unanimously.

Dan Kraushaar noted that the agencies were sent copies of this application on or about 10/23/15 and have 30 days to respond. As they did not have their 30 days as of yet, we will give them additional time to have it and respond. He also noted that the ZBA needs to declare this as a type II action for SEQRA purposes at the next meeting.

Richard Shonberg made a motion to adjourn the meeting. Laurie DiFrancesco seconded it. All in favor and motion carried. Meeting concluded at 9:29pm.