

12/14/2022 - Gamzeh

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

December 14, 2022
7:33 p.m.

APPLICATION:

Gamzeh
10 Wentworth Place
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. DANIEL HILLER
Member

MR. ANDREW K. PRESTON, ESQ.
Village Attorney

MR. GERRY CASTRO
Deputy Village Administrator

Yaffa Kaplan
Court Reporter

12/14/2022 - Gamzeh

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2 CHAIRMAN KEILSON: Okay, ladies and
3 gentlemen. Welcome to the Board of Zoning
4 Appeals. Number one, we apologize for the
5 inclement conditions here tonight. Trustee
6 Fragin is in charge of that. He is in charge
7 of the heat.

8 MR. FRAGIN: All complaints, feel free.
9 I have to confer with Mr. Preston before I
10 answer any questions.

11 CHAIRMAN KEILSON: At the same time, we
12 have to take note of the fact that we are two
13 short tonight. Unfortunately, we had
14 last-minute notices from two of the members
15 that can't join us tonight. It throws us into
16 a situation whereby the rules of the Board of
17 Zoning Appeals, all decisions require
18 unanimity tonight. So if you have any sense
19 that maybe there may be dissension, now is the
20 time to ask for an adjournment or you can ask
21 during the proceedings. In any event, that's
22 the requirement. Okay.

23 Having said that, let's go back to
24 Gamzeh. Proof of posting?

25 MR. CASTRO: Chairman, I offer proof of

12/14/2022 - Gamzeh

posting and publication.

CHAIRMAN KEILSON: Thank you very much.
Please turn off your phone and please no
conversations.

MR. MAYERFELD: Hi, good evening. So we
are here again representing the Gamzeh case.
And the important change, just to jump right
into it, that we made from last time was
pushing the house back an additional 5 feet
and also rotating the pool. So rotating the
pool, this was a point of conversation. This
was something that was easy to fix on the plan
that eliminated that variance, and pushing the
house back an additional 5 feet does make this
scenario much better in terms of front yard
and also front yard height setback ratio.
Everything else remains the same in terms of
the coverage, the side yard, the second front
yard on Stevens. I am not sure --

CHAIRMAN KEILSON: So I think you should
just walk through each of the variance
requests so that we can focus and --

MR. MAYERFELD: So the requests are --
again, they largely remain the same except for

12/14/2022 - Gamzeh

the pool. The request tonight is for building coverage --

CHAIRMAN KEILSON: Excess building coverage, yes.

MR. MAYERFELD: Overage of 280 square feet.

CHAIRMAN KEILSON: Okay.

MR. MAYERFELD: Front yard.

CHAIRMAN KEILSON: Which equates to 9 percent?

MR. MAYERFELD: Nine percent, correct.

CHAIRMAN KEILSON: Okay.

MR. MAYERFELD: A front yard setback which is we are at 19.4.

CHAIRMAN KEILSON: The requirement being --

MR. MAYERFELD: The requirement being 30 feet. So again, there is a -- we talked about last time we do have that front yard and it is a little bit of an angle and I can quote you some numbers. This 19.4 is obviously at the tightest point, but as you go get closer to Stevens, A, the house is at a little bit of an angle so the yard increases, but in addition

12/14/2022 - Gamzeh

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to that it also --

CHAIRMAN KEILSON: What does it increase to?

MR. MAYERFELD: It increases to -- on the front it increases to 22 feet and which is close to 32 feet, 31 feet, 10 inches from the curb.

CHAIRMAN KEILSON: Okay.

MR. MAYERFELD: And then by the garage, it's up to that's almost 42 feet from the curb. So that's really set back quite a distance, and that does comply in terms of front yard along --

CHAIRMAN KEILSON: Do we happen to know what the other houses on Wentworth, how they are set back? I think Mr. Castro had done some investigation. Can you share with us?

MR. CASTRO: Yes. The house directly across the street on Stevens --

CHAIRMAN KEILSON: So the Shulder residence.

MR. CASTRO: -- that was approximately 30 -- between 30 and 31 feet.

MEMBER GOTTLIEB: From the curb?

12/14/2022 - Gamzeh

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MR. CASTRO: From the curb.

CHAIRMAN KEILSON: Right.

MR. CASTRO: The next house over on the corner of Broadway and Wentworth is 20 -- approximately 26 feet from the curb and then going the opposite way on the corner of Wentworth and Lismore --

CHAIRMAN KEILSON: But that house is facing Lismore.

MR. CASTRO: Yes. It faces Lismore so the side is approximately 35 feet from the curb.

CHAIRMAN KEILSON: Okay.

MR. MAYERFELD: So I don't know how the Board feels, but it feels like we are kind of within the language of the block or --

CHAIRMAN KEILSON: What language is that?

MR. MAYERFELD: We fit right in with the character of the neighborhood.

CHAIRMAN KEILSON: I see.

MR. MAYERFELD: In terms of we also have a total aggregate. Again, the aggregate is made up of both the side yards, the front yard

12/14/2022 - Gamzeh

1 along Stevens and then the side yard, the two
2 side yards, again, the noncompliance is really
3 just for the garage. That is -- as you see on
4 the site plan, that is the item that sticks
5 out, that's the garage portion of the house.
6 Otherwise the primary portion of the house
7 does sit in and you see it only sits on one
8 area along Stevens Street so not -- the
9 noncompliance is just along by the garage, and
10 it doesn't take off the entire portion of the
11 house. It also deals with everything else in
12 terms of height, in terms of how much it
13 encroaches onto Stevens, and the last thing we
14 are also requesting is height setback ratio on
15 the front yard. Again, moving back 5 feet
16 does make it better and you can see also this
17 past time when we sent in the drawing we did
18 give you the dash line because I know when you
19 look at the side elevation, it looks like it's
20 a really tough high setback ratio but in
21 reality you are looking at the side profile of
22 the dormers, but the house -- the front of the
23 house does have a shed roof that does slope
24 back so it's really -- as you see on one of
25

12/14/2022 - Gamzeh

1 the sheets, and I show it by the elevations,
2 it shows where the high setback where Gerry
3 has it open right now where that heavy dashed
4 line represents the section of the house where
5 the height setback ratio is really taken from.
6

7 MR. CASTRO: That would be the majority
8 -- the main roof?

9 MR. MAYERFELD: Correct.

10 MR. CASTRO: Not the dormers?

11 MR. MAYERFELD: Correct.

12 CHAIRMAN KEILSON: Dimension, what are
13 we talking about? What should it be and what
14 is it?

15 MR. MAYERFELD: It should be --

16 CHAIRMAN KEILSON: -- .74?

17 MR. MAYERFELD: .74, correct.

18 CHAIRMAN KEILSON: And proposed?

19 MR. MAYERFELD: 1.1.

20 CHAIRMAN KEILSON: What was it before
21 when we had it? Do you have that by any
22 chance? Mr. Castro, do we have the prior one?

23 MR. CASTRO: I don't believe I have it,
24 but we can figure that out. That's easy.

25 MR. MAYERFELD: It was 1.5.

12/14/2022 - Gamzeh

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2 CHAIRMAN KEILSON: Okay. What else
3 helps on the mitigation in terms of the
4 looming effect of the front of the house? I
5 think in your petition you alluded to the fact
6 that through facing 878 --

7 MR. MAYERFELD: Right. The reality
8 there is -- reality this is all under -- one
9 house actually sits -- the other houses sits
10 along the side streets. There is no other
11 neighbors across the street. So we are not
12 really, you know, encroaching on anybody's
13 privacy or anybody's space on the front, and
14 we do feel like there is additional space,
15 that there is -- you know, it does exist
16 throughout the village but there is additional
17 space that belongs to the village, but as seen
18 from the street, it's all grass. There is a
19 lot more grass from the curb to the existing
20 property like -- so you know, even though the
21 numbers seem to be tough, but in reality we do
22 have a number of extra feet to the curb. So
23 there is extra grass to the house so it does
24 seem it's set back an additional 10 feet
25 certainly on Wentworth.

12/14/2022 - Gamzeh

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CHAIRMAN KEILSON: Questions from the
Board?

MEMBER GOTTLIEB: No.

CHAIRMAN KEILSON: Mr. Gottlieb?

MEMBER GOTTLIEB: Thank you.

CHAIRMAN KEILSON: You are out of
character.

MEMBER GOTTLIEB: We have done this
already once or twice.

CHAIRMAN KEILSON: Mr. Hiller, any
questions?

MEMBER HILLER: I have a comment. I
appreciate the efforts that were made after --
I know last time you were very set in your
ways, Mr. Gamzeh, and we thought that we would
not be able to come to an agreement, but I
appreciate the fact that you made an effort to
comply with the restrictions of the village
and you did it in good faith. I appreciate
it.

MR. GAMZEH: Thank you. It was Mr.
Mayerfeld who advised me, so give him the
credit.

MEMBER HILLER: You had to be smart

12/14/2022 - Gamzeh

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enough to listen.

MR. CASTRO: Mr. Chairman, I want to also note the configuration of the roof helps mitigate that looming effect also being with the sloped roof coming down beyond the eaves that special touch that you added.

MR. MAYERFELD: What Mr. Castro is referring to, the way the house is detailed, the roof doesn't start the ceiling on the second floor but comes down a little bit lower, so it does bring down the scale of the house. So as you are driving down the street, it feels like the house is not as tall as it really is. It's not nearly as imposing in this form of architecture.

CHAIRMAN KEILSON: Good word. Anyone in the audience want to speak to the matter? Mr. Fragin? We recognize Trustee Fragin.

MR. FRAGIN: Thank you, Mr. Chairman.

CHAIRMAN KEILSON: Thank you for joining us.

MR. FRAGIN: Thank you for having me. Pleasure to actually be on this side of the railing. Yeah. First, if I may, just a point

12/14/2022 - Gamzeh

1 of personal privilege to congratulate Mr.
2
3 Gottlieb on becoming chairman of the Lawrence
4 Beautification Tree Committee at the last
5 meeting so I think rivaling you for chairman
6 title, but it will be in a different forum.

7 So I just -- worthwhile, we are all
8 concerned about the environment, et cetera.

9 With regard to the specific application, I am
10 wholeheartedly in support. I just think it's
11 important from a neighbor's perspective. I
12 don't speak for the other neighbors
13 necessarily who are here. Just from my
14 perspective, I am not immediately adjacent. I
15 am across the street, but I do look at the
16 property. It was pointed out correctly that
17 there really is no neighbor on the other side
18 and probably will never be. Unlikely the
19 State of New York is ever going to sell that
20 property for housing at any point. One never
21 knows what might happen, but there really
22 isn't anybody who is affected by the fact that
23 this house might be closer than the other
24 houses to Wentworth Place.

25 It's kind of a hideaway street. We kind

12/14/2022 - Gamzeh

1 of like it that way. There are a lot of
2 people who lived here for a very long time who
3 don't know how to find these two streets,
4 Wentworth and Stevens. It's a nice little
5 thing, but the fact is if the house would
6 continue to be moved back towards the other
7 neighbors, it would probably be something that
8 would be a little bit more disadvantageous to
9 the neighbors as opposed to advantageous. So
10 I am really -- I am glad there seems to be a
11 meeting of the minds here, but as far as
12 supporting this iteration of this proposal, I
13 think very much in support and I would like to
14 ask the Board to consider the fact -- I know
15 it's a little closer than some of the other
16 houses, but there is really nobody affected by
17 that from my perspective. So thank you very
18 much for your indulgence.

19
20 CHAIRMAN KEILSON: Thank you. Anyone
21 else? Hi. Please step forward. Identify who
22 you are.

23 MR. BLAIVAS: My name is David Blaivas.
24 I am at 40 Stevens Place, directly next door
25 to the -- I guess the house we are talking

12/14/2022 - Gamzeh

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about and I second what Mr. Fragin said and I guess I am the most affected I guess in a negative way to the extent that the house has moved. As much as we love the Gamzehs and are looking forward to the Gamzehs as neighbors, I would like to keep their house as far away from my house as possible. So I am very much in favor. Glad we moved it back 5 feet. I am okay with that but not moving it back any further. So I am very much in favor.

CHAIRMAN KEILSON: Thank you very much.
Thank you. Okay. Someone else?

MEMBER HILLER: We will now only entertain negative comments.

MR. MANDEL: Moshe Mandel. I am 39 Stevens Place, which is also right across the street from the Gamzehs' future home and I agree with everything everyone said. Looking forward to having him.

MR. GAMZEH: I just actually -- just to be known, I am currently neighbors with all these people.

MS. MANDEL: We share a backyard.

MEMBER GOTTLIEB: But on the other side

12/14/2022 - Gamzeh

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of their house.

MR. GAMZEH: They get to see how I look like from the back now.

CHAIRMAN KEILSON: So taking into consideration the benefit to the applicant as opposed to any detriment to the community. Taking into consideration special circumstances driving the situation in terms of having no neighbor across the street at 878, the fact that the effort made by the applicant to mitigate our concerns about the looming and other issues or concerns that were raised and diminished in support of our seeking out advocacy for it, so we are going to have a vote. Mr. Gottlieb?

MEMBER GOTTLIEB: Oh, I get to go first? You said it's got to be unanimous? So typically I think that new construction should be done as of right, but listening to the testimony repeatedly, particularly Mr. Fragin's comments about how this really has no negative impact, I will vote for this.

CHAIRMAN KEILSON: Mr. Hiller?

MEMBER HILLER: Ignoring all the

12/14/2022 - Gamzeh

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2 comments that were made, I would have voted
3 for it anyway.

4 CHAIRMAN KEILSON: Okay and I will vote
5 for it as well, and we will give you let's say
6 two and a half years.

7 MR. MAYERFELD: Thank you so much for
8 your consideration. Thank you for working
9 with us.

10 MR. CASTRO: You didn't go before the
11 Board of Buildings yet?

12 MR. MAYERFELD: Not yet.

13 MR. CASTRO: So you have to make the
14 application to them.

15 (Whereupon the hearing concluded at 7:47
16 p.m.)

17 *****

18 Certified that the foregoing is a true and accurate
19 transcript of the original stenographic minutes in
20 this case.

21 
22 YAFFA KAPLAN

23 Court Reporter
24
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12/14/2022 - Stern

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

December 14, 2022
7:47 p.m.

APPLICATION:

Stern
32 Beechwood Drive
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. DANIEL HILLER
Member

MR. ANDREW K. PRESTON, ESQ.
Village Attorney

MR. GERRY CASTRO
Deputy Village Administrator

Yaffa Kaplan
Court Reporter

12/14/2022 - Stern

CHAIRMAN KEILSON: All right, ladies and gentlemen. We have to move on. Next matter is that of Stern, 32 Beachwood Drive. Ske.

MR. PROFESORSKE: Okay. David Profesorske. I have been here many times. I am here with Douglas Nelson as well as Mr. Sam Stern who owns the house and is moving there.

CHAIRMAN KEILSON: Can you speak up, please?

MR. PROFESORSKE: Sure. So we are -- first of all, thank you to the Board, even in this small fashion. Thank you for taking the time. And we are here tonight seeking relief. This is a newly constructed house on a lot that is perhaps one of the smaller lots in the village of Lawrence. Having that in mind, the lot currently as it exists is 67 feet whereas the minimum required, if you want to call it lot width for that zone is 75 feet, so we are starting off on a bit of an impasse. So we have --

CHAIRMAN KEILSON: Ske, did you prepare a code relief?

MR. PROFESORSKE: Yes and we submitted

12/14/2022 - Stern

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it.

CHAIRMAN KEILSON: No one seems to have
it.

MR. CASTRO: Was it submitted to the
Building Department?

MR. PROFESORSKE: I don't see how it
couldn't be.

MR. NELSON: It should have been
included in the package.

MEMBER GOTTLIEB: So listening to the
first variance or code relief, it's a
preexisting condition of 67 feet?

MR. PROFESORSKE: Correct, yes.

MEMBER GOTTLIEB: And you really can't
change it, can you?

MR. PROFESORSKE: No. We tried but the
surveyor did not agree.

MEMBER GOTTLIEB: So that's like a
nonissue.

MR. PROFESORSKE: Exactly. Thank you,
Mr. Gottlieb, for making my case. Our case.
So anyway, so getting back to it so that's
point number 1. Point number 2, the house --
first of all, just to list the variances

12/14/2022 - Stern

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2 because it seems like the code relief is
3 nonexistent, we are requesting a variance on
4 the two side yards. The permitted setback is
5 at 15 feet, and we are requesting 11 feet on
6 both of them.

7 CHAIRMAN KEILSON: What's the current
8 one?

9 MR. PROFESORSKE: The current one is --
10 one side is currently 11.

11 CHAIRMAN KEILSON: We will take it 1 by
12 1.

13 MR. PROFESORSKE: On one side it's
14 currently 11. And we are proposing 11.

15 CHAIRMAN KEILSON: You want to maintain
16 the nonconformance.

17 MR. PROFESORSKE: The other one is 7
18 foot 3, and we are improving that condition
19 and proposing 11 feet.

20 MEMBER GOTTLIEB: What would the
21 aggregate requirement be?

22 MR. PROFESORSKE: The aggregate is 30.

23 MEMBER GOTTLIEB: So you realize on a
24 67-foot lot if you meet the requirement, you
25 have only got a 37-foot-wide house. It sounds

12/14/2022 - Stern

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2 like a difficult task even for a skilled
3 architect.

4 MR. PROFESORSKE: Yes. So I would also
5 like to note that on the right side of the
6 house where we are proposing an 11-foot yard
7 setback, where it's currently 7-foot-3, that
8 11 feet is only for a very small portion of
9 the house and it's only for the garage and
10 it's only for a single story. So we really,
11 really tried to stay tight to the parameters
12 of the code and yeah, I mean, so those are the
13 variances. Those are the height setback ratio
14 variances only on the right side -- the left
15 side. The height setback ratio only on the
16 left side, which is again existing
17 nonconforming in a sense.

18 MEMBER GOTTLIEB: So why would it only
19 be on the left side?

20 MR. PROFESORSKE: Because like I said,
21 the right side we kept it to single story.

22 MEMBER GOTTLIEB: I see. Where it's 11
23 feet is single story. Where it's 15 feet
24 it's --

25 MR. PROFESORSKE: Correct and then it

12/14/2022 - Stern

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2 drops back to 15 feet for the second floor and
3 yeah and that's pretty much it.

4 CHAIRMAN KEILSON: How many family
5 members are we talking about?

6 MR. PROFESORSKE: So it's Mr. Sam Stern
7 with his wife and five children all living at
8 home.

9 MR. STERN: Soon to be six.

10 CHAIRMAN KEILSON: Mr. Hiller, any
11 questions?

12 MEMBER HILLER: I appreciate the fact
13 that the lot has been improved as far as the
14 variances. I think the plan makes sense.

15 MR. PROFESORSKE: Thank you.

16 CHAIRMAN KEILSON: Who was the prior
17 owner?

18 MR. PROFESORSKE: I forgot their name.

19 MR. STERN: I forgot his name.

20 CHAIRMAN KEILSON: It's not a contest.

21 MR. PROFESORSKE: I forgot his name. I
22 think that he was very into baseball. Not
23 Shapiro.

24 MEMBER GOTTLIEB: So you are improving
25 the side yard coverage?

12/14/2022 - Stern

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MR. PROFESORSKE: Yes, correct, and we also have letters of support as well.

CHAIRMAN KEILSON: Do you want to submit the letters, please?

MEMBER GOTTLIEB: Particularly I am hoping you have a letter from the house to the left.

MR. PROFESORSKE: Sorry. We have to the east when you are facing the house.

MEMBER GOTTLIEB: The reason I say the house to the left, that's the one impacted by the height setback ratio.

MR. PROFESORSKE: Which was existing as nonconforming as well, so it's not a worsening condition.

MEMBER GOTTLIEB: With the prior house.

CHAIRMAN KEILSON: Any further questions?

MEMBER GOTTLIEB: No.

CHAIRMAN KEILSON: Any comments from the lingering masses in the audience? Okay. Taking into consideration the benefit to the applicant, and again, thank you very much for what we consider to be a muted application.

1 12/14/2022 - Stern

2 MR. PROFESORSKE: Thank you.

3 CHAIRMAN KEILSON: Far less challenging
4 for us and for you as well. So taking again
5 the benefit to the applicant as opposed to any
6 detriment to the community, we are going to
7 have a vote. Mr. Hiller will vote first.

8 MEMBER HILLER: For.

9 CHAIRMAN KEILSON: Mr. Gottlieb?

10 MEMBER GOTTLIEB: For.

11 CHAIRMAN KEILSON: I will vote for and
12 two and a half years?

13 MR. PROFESORSKE: That should be
14 sufficient.

15 CHAIRMAN KEILSON: Okay.

16 MR. PROFESORSKE: Thank you.

17 MR. CASTRO: You didn't go before the
18 Board of Building Design yet?

19 MR. PROFESORSKE: No.

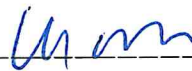
20 MR. CASTRO: So you will have to submit
21 the application.

22 (Exhibit A, Letters of support, marked
23 for identification, as of this date.)

24 (Whereupon the hearing concluded at 7:55
25 p.m.)

12/14/2022 - Stern

Certified that the foregoing is a true and accurate
transcript of the original stenographic minutes in
this case.



YAFFA KAPLAN

Court Reporter

12/14/2022 - Stern

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----- EXHIBITS -----

EXHIBIT

FOR ID.

Exhibit A

Letters of support

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12/14/2022 - Weinreb

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

December 14, 2022
7:56 p.m.

APPLICATION:

Weinreb
150 Broadway
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. DANIEL HILLER
Member

MR. ANDREW K. PRESTON, ESQ.
Village Attorney

MR. GERRY CASTRO
Deputy Village Administrator

Yaffa Kaplan
Court Reporter

12/14/2022 - Weinreb

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CHAIRMAN KEILSON: Weinreb of 150
Broadway.

MR. FLAUM: Good evening, Chairman,
members of the Board. I am here representing
Mr. And Mrs. Weinreb residing at 150 Broadway.

CHAIRMAN KEILSON: Did this ever come
before us?

MR. FLAUM: This has never come before
this board in this official setting.

CHAIRMAN KEILSON: It became before --

MR. FLAUM: I submitted it previously,
informally we discussed it, went back.

CHAIRMAN KEILSON: Sometime ago though.

MR. FLAUM: Yes. Good evening. Here on
behalf of the homeowners, seeking a variance
to maintain a proposed or existing wood deck
located at the rear of the house, but since
this is a corner property, it's one of the
side yards of the neighbors, but it's their
official rear yard for their house. As such,
we are seeking code relief for two items:
Section 212-16.D(1), minimum side yard
setback. Where you have a deck that's higher
than 36 inches, you are required to set back

12/14/2022 - Weinreb

1 the same amount as it was for a building.
2
3 Where you are permitted to have 15 feet for a
4 side yard, we are proposing 8 feet, 3 and a
5 half inch, which is an overage of 6 feet, 8
6 and a half inches.

7 Section 212-16.D(1), minimum rear yard
8 setback for decks, where a deck is exceeding
9 36 inches in height, you have the setback for
10 the same amount as the house, which would be
11 30 feet. We are proposing 7 feet, 9 inches,
12 which is an overage of 22 feet, 3 inches.

13 CHAIRMAN KEILSON: So how did it come
14 about?

15 MR. FLAUM: I am summarizing quickly.
16 Just Subsection 212-35 where it discusses
17 decks and patios are not permitted to encroach
18 into a setback except if they are less than 3
19 feet. However, this deck is obviously higher
20 than 3 feet and there is a back story and
21 there is some other information I would like
22 to relay over.

23 This deck was built during the height of
24 COVID. The homeowners at the time were
25 quarantining at home like everyone else.

12/14/2022 - Weinreb

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2 Unfortunately about a week before the Succos
3 holiday, Mr. Weinreb came down with COVID.
4 His parents and his in-laws refused to have
5 him or his family for the holiday. They were
6 then forced to, you know, engage in figuring
7 out how they are going to have a Succah on
8 their property. Their house currently is a
9 split-level house. We will get into that in a
10 little, but as such their dining level is
11 raised up considerably higher than their
12 surrounding grade of the property at the rear.
13 So it's about 4, 4 feet and change I think
14 from what I counted with the stair risers.
15 That being said, the deck would need to be
16 built off of that level. It would either be
17 the kitchen or the dining room, which faced
18 the rear yard and so they started the process
19 of building a deck and as such they completed
20 it prior to the Succos holiday so they could
21 actually celebrate the holiday properly.

22 CHAIRMAN KEILSON: Who built the deck?

23 MR. FLAUM: What?

24 CHAIRMAN KEILSON: Who built the deck.

25 MR. WEINREB: A contractor. Michael

12/14/2022 - Weinreb

Weinreb, 150 Broadway. Hired a friend of mine, and the guy built the deck. I hired a contractor to build it.

CHAIRMAN KEILSON: Do we have the name of the contractor?

MR. WEINREB: I don't know his last name. Jose.

MEMBER HILLER: Did you at that time know that any construction requires a permit?

MR. WEINREB: Not at all. I thought a deck doesn't require and is not a real structure and is not an actual building.

MR. FLAUM: This was brought up at a separate discussion that I believe there should be like a new homeowners packet prepared for homeowners in Lawrence explaining to them what does and doesn't need a permit. People buy properties all the time in jurisdictions and have no clue what does or doesn't need a permit, so that's a separate discussion that I brought up with Chairman Keilson.

MEMBER GOTTLIEB: When the deck was built, very often decks are a few steps down.

12/14/2022 - Weinreb

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2 You come out of a door and you can go down,
3 one, two, or three steps. It's still a deck,
4 and then it would be below 36 inches.

5 MR. FLAUM: True. Correct.

6 MEMBER GOTTLIEB: You didn't come before
7 to ask an opinion of the Building Department
8 and that could have been resolved and you
9 wouldn't be here. Not you personally, but
10 your clients.

11 MR. FLAUM: Granted. That being said,
12 again, this all happened during the height of
13 COVID. I am not sure what was and wasn't open
14 and I wasn't advised prior but I would have
15 obviously made them aware that a deck should
16 be lower than a certain height to not trigger
17 the side variance. That being said, obviously
18 the less steps you have from outside to
19 inside, the less tripping hazards you have.

20 A deck is more functional usually when
21 it's flush against the floor, and once we are
22 going down that many steps, it would
23 essentially be at grade. It wouldn't be a
24 deck anymore. It would be a patio and it
25 would be compliant. However, I just want to

12/14/2022 - Weinreb

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2 again bring to your attention, I went back
3 into the historical records for the house and
4 I made photocopies of the elevations from the
5 two frontages, which helps really paint the
6 story of why this property is more unique than
7 most others.

8 So these are the two front elevations
9 that you are going to have in front of you.
10 The one on top is the one facing Broadway.
11 The one on the bottom is the one facing Sutton
12 Place. So --

13 MEMBER GOTTLIEB: Right.

14 MR. FLAUM: The top is facing Broadway.
15 So you can see there is about nine steps going
16 from the curb level up to the split-level
17 first floor and that's the level that the deck
18 is actually at in the backyard, but if you
19 look at the bottom level elevation, that's the
20 side of the face you are facing when you are
21 looking from Sutton. So you can see that the
22 grade is slightly raised up there so it's less
23 steps. It's not nine steps. It's about five.
24 Nevertheless, it's raised significantly
25 higher.

According to current zoning, if this house was built today, it would be 20 feet closer to Broadway as what was permitted, so I don't know why they situated the house as far back as they did on Broadway, but this house and this deck would be compliant of a house were it located where it currently is. However, there is nothing the Weinrebs can do to relocate the house. The deck just had to go in, and the deck would typically be off a

12/14/2022 - Weinreb

1 rear yard. It wouldn't be in the front yard
2 and because they are a corner, they don't
3 really have space on the other side yard
4 because there is only 7 feet, 8 inches on that
5 side yard. So given the fact they needed a
6 deck and they were pressed for time and they
7 didn't advise anybody, this is why we are here
8 today.
9

10 I do have two letters of support. I
11 know one of them was sent in to the village
12 directly, but there is two others. One from
13 Phillip and Melissa Pollack and I put the
14 other ones somewhere else. Those are the
15 direct neighbors who are most adversely
16 affected, quote, unquote, and then I have from
17 Sruli and Shira Friedman who are neighbors
18 down the block on Broadway. I believe there
19 is another neighbor but one other neighbor who
20 it would affect. She travels a lot. I don't
21 even know her name. What's her name?

22 MR. WEINREB: Mrs. Taub.

23 MR. FLAUM: Mrs. Taub. So she travels a
24 lot. She is not around. They weren't able to
25 contact her to actually get a letter of

12/14/2022 - Weinreb

1 support. However, for her side the deck isn't
2 any closer than the current house.
3

4 MEMBER GOTTLIEB: But the person that's
5 most affected, you don't have a letter?

6 MR. FLAUM: No, we do. That one we do
7 have. That's the Pollacks.

8 MEMBER GOTTLIEB: That's the rear. Not
9 the side.

10 MR. FLAUM: The side, why is she more
11 affected?

12 MEMBER GOTTLIEB: The one is -- the rear
13 is Taub?

14 MR. FLAUM: No, Pollack. The one most
15 affected, we have a letter of support. It was
16 submitted. The one we don't have a letter for
17 is Taub and she travels a lot and they weren't
18 able to get it from her. But bear in mind the
19 deck there is not any closer than the house,
20 and that house is existing nonconforming at 7
21 feet, 8 inches. So it's not any worse than
22 what she currently has with the house.

23 CHAIRMAN KEILSON: I know Mrs. Taub, and
24 knowing her, I am sure it would not be an
25 issue.

12/14/2022 - Weinreb

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MR. FLAUM: Just going back to one of the things I mentioned before, I checked the code. Subsection 212.38 for front yard when you are on a corner, the front yard setback only has to be 20 percent of the width of the lot. With width being 86, it would be 17.2 feet. So the current frontage is 36.18 on Broadway. Obviously we can't move the house, but that house, if it was properly located under the current zoning, that deck would be fully compliant as it's currently designed. So it's just interesting that when this house was built, I don't know what zoning was in effect but it was built --

MEMBER GOTTLIEB: The zoning was you want to be as far off from Broadway as you can be.

MR. FLAUM: Is that what it was?

MEMBER GOTTLIEB: It's kind of a busy street.

MR. FLAUM: But it's a broad way.

MEMBER GOTTLIEB: So I have no questions.

CHAIRMAN KEILSON: The issue on the

12/14/2022 - Weinreb

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2 table is something was built improperly, and
3 do we want to put the applicant to the cost of
4 taking it down or modifying it in some fashion
5 to mitigate it somewhat.

6 MR. FLAUM: So it's been there already
7 three years, and no one has really complained.
8 The neighbors don't seem to have an issue.
9 They give a letter of support.

10 MEMBER GOTTLIEB: How did it come about
11 that you came here?

12 MR. FLAUM: That I came here?

13 MEMBER GOTTLIEB: Your presentation.

14 CHAIRMAN KEILSON: Why did you initiate
15 an application?

16 MR. FLAUM: Oh, sorry, the homeowner. I
17 didn't understand your question. The
18 homeowner received a notice of violation from
19 Mr. Elliot from the Building Department that
20 he is building a deck without a permit and --

21 CHAIRMAN KEILSON: I think probably it
22 was an anonymous letter from a neighbor.

23 MR. FLAUM: I don't know how. Was it a
24 neighbor? He said it was from the inspector
25 himself so --

1 12/14/2022 - Weinreb

2 CHAIRMAN KEILSON: I see.

3 MR. CASTRO: Was there any other work
4 done to the house inside, alteration that
5 required a closing out?

6 MR. WEINREB: Not a stitch.

7 MR. FLAUM: It's very nice and quaint.
8 You should go see it. It's like going back in
9 history.

10 MEMBER HILLER: How long are you living
11 in the house?

12 MR. WEINREB: Ten years.

13 MEMBER HILLER: There was no deck
14 before?

15 MR. WEINREB: There was an existing
16 concrete. I was originally advised just put a
17 deck on top and didn't realize the
18 consequences.

19 MEMBER HILLER: How old is this deck as
20 you said?

21 MR. WEINREB: The current deck? The new
22 deck? COVID. Two and a half.

23 MR. FLAUM: It was built probably 2020,
24 September, October.

25 MR. WEINREB: Right when everything shut

12/14/2022 - Weinreb

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down.

MEMBER HILLER: While I understand your presentation, I don't accept the fact that COVID is an excuse to build an illegal deck. I think that's a stretch by any measuring stick. The other thing I wanted to bring up is the fact that the bottom of the deck is being used and the yard is being used for storage for broken tires, lumber, pieces of lumber, pieces of Succah.

MR. WEINREB: Well, I have -- I just switched my tires recently on my car, and I just have them there now. It's not going to be long term. I just have to clear out the garage and find a spot for them.

MEMBER HILLER: And the lumber and other stuff?

MR. WEINREB: There are a few pieces of lumber. When I arrange the garage, it's going to be done.

MEMBER HILLER: Underneath the deck there it seems to be set up for storage.

MR. WEINREB: The way the deck was constructed, that's part of the support

12/14/2022 - Weinreb

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2 system, and when I took down the Succah just
3 to clear out the garage and find a spot, it's
4 a little messy so I threw the lumber under
5 there. It happens to fit.

6 MEMBER HILLER: Where did you put the
7 Succah before you had the deck?

8 MR. WEINREB: On the ground. The bugs
9 came in, the slugs came in, the squirrels came
10 in, the raccoons were on the roof. So I
11 didn't want to hang out there that often so I
12 decided to go with the deck.

13 MEMBER GOTTLIEB: I have got a question
14 for Gerry. Since there was no permit, do we
15 know it was constructed properly, proper
16 footing, proper supports?

17 MR. CASTRO: Everything above ground can
18 obviously be visualized and we can inspect
19 that. The plans will show what the footings
20 should be. We can spot-check.

21 MEMBER GOTTLIEB: I just asked because
22 there have been incidents -- not in Lawrence
23 -- where decks have collapsed which is why we
24 like the Building Department to grant permits
25 and inspect throughout.

12/14/2022 - Weinreb

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2 MR. CASTRO: Absolutely. For the
3 benefit of the applicant or the homeowner.

4 MEMBER HILLER: Mr. Flaum, did you do a
5 survey of the deck to see if it seems to meet
6 any kind of standard?

7 MR. FLAUM: It looks like it's built
8 properly, but we have to do a proper surface
9 check to make sure it's proper deck-wise and
10 because it can be done without affecting the
11 deck at all. Upon issuance of the permit, we
12 can handle that in the field.

13 CHAIRMAN KEILSON: Any further questions
14 from the Board?

15 MEMBER GOTTLIEB: I don't know what
16 direction the Board is leaning toward, but in
17 the event that it gets approved, I would like
18 to see some greenery or evergreens allowing
19 the neighbors some privacy.

20 CHAIRMAN KEILSON: You are talking about
21 the rear neighbor?

22 MEMBER GOTTLIEB: The rear and the side.

23 MR. WEINREB: So there are. We put
24 trees there. They are currently there. They
25 are 20 feet high, 15, 20 feet high.

12/14/2022 - Weinreb

MEMBER GOTTLIEB: I can see pretty
clearly when I was there. Okay.

MEMBER HILLER: Are they evergreens?

MR. WEINREB: They are evergreens.
Leyland Spruce.

MEMBER GOTTLIEB: Come on up. We know
you want to say something.

MRS. WEINREB: Judy Weinreb. I just
wanted to clarify, between us and Pollack
there are very tall -- they must be 20 feet
tall and then there is some between us and
Mrs. Taub but it's like a bunch of just trees.
Do you want us to put up new bushes
alongside --

MEMBER GOTTLIEB: Typically when
something is this close, we like to afford
your neighbors the privacy that when you are
on the deck they won't have to see you. They
will have to hear you, but they wouldn't have
to see you.

MR. FLAUM: I would make one caveat that
she should ask her neighbor before whether she
wants a fence or planting because people get
very protective over their vistas and she

12/14/2022 - Weinreb

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might not appreciate one or the other so I think they should ask before they do anything.

CHAIRMAN KEILSON: Fair enough.

MEMBER GOTTLIEB: It sounds like a stipulation we can live with if you were so inclined.

CHAIRMAN KEILSON: Any further questions from the Board? Anyone from the audience who wants to speak to the matter? I see Mr. Bodner from across the street joined us. We want to make it worth your while since you came out in the cold.

MR. BODNER: I can confirm that he had no inkling of the zoning requirements and was done entirely innocently at substantial expense, and in view of the fact that we have so many of these side or back porches, it's not -- it would not be unreasonable for the Board to take that into account and --

CHAIRMAN KEILSON: Certainly.

MR. BODNER: So --

CHAIRMAN KEILSON: Thank you. Okay. Any further comments? Questions? No. Taking into consideration the benefit to the

12/14/2022 - Weinreb

1 applicant, it's a true benefit to the
2 applicant under the circumstances. I think it
3 would be viewed as a hardship to expect they
4 would have to remove it at this point. And I
5 think it's been an educational experience.
6 Look before you leap and all those types of
7 aphorisms. Benefit to the applicant as
8 opposed to any detriment to the community. At
9 this juncture, Mr. Gottlieb, will you vote?
10

11 MEMBER GOTTLIEB: I will vote for, but I
12 will also ask that you clean up the yard,
13 remove the tire, the wood, the trash.

14 CHAIRMAN KEILSON: That's a request from
15 your wife as well. Mr. Hiller?

16 MEMBER HILLER: I know this is setting a
17 precedent and I am reluctant, but I note the
18 hardship that it is and I want to believe that
19 this was done unintentionally with no malice
20 and best of your knowledge you were operating
21 in a clean way. So I will go against my
22 better nature and vote for.

23 CHAIRMAN KEILSON: I will vote for as
24 well. And as much as the item is there, you
25 don't need time to put it up.

12/14/2022 - Weinreb

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2 MR. CASTRO: I don't think it's going to
3 be subject to the variance but you understand
4 that in order to close this file, out building
5 inspector is going to have to come down and
6 confirm and verify that the deck footings are
7 built according to the plan. However that may
8 be.

9 CHAIRMAN KEILSON: Okay. We will
10 adjourn.

11 (Exhibit A, Letters of support, marked
12 for identification, as of this date.)

13 (Exhibit B, Existing elevations, marked
14 for identification, as of this date.)

15 (Whereupon the hearing concluded at 8:15
16 p.m.)

17 *****
18 Certified that the foregoing is a true and accurate
19 transcript of the original stenographic minutes in
20 this case.

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22 
YAFFA KAPLAN

23 Court Reporter
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12/14/2022 - Weinreb

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----- EXHIBITS -----

EXHIBIT

FOR ID.

Exhibit A	Letters of support	46
Exhibit B	Existing elevations	46