

**MINUTES OF THE MEETING HELD BY
THE BOARD OF ZONING APPEALS
AT VILLAGE HALL**

DATE: April 19, 2017 TIME: 7:30 PM

PRESENT:

Russell Mohr, Chairman
Jeffrey Blumin, Member
Newton Burkett, Member
Chris Hadjandreas, Member

ALSO PRESENT:

Howard D. Avrutine, Village Attorney
James Antonelli, Village Engineer

EXCUSED:

Cindy Kaufman, Member

See list at end of minutes

PROCEEDINGS

The Chairman called the meeting to order at 7:32 PM.

Notice of tonight's meeting was posted and provided to the Oyster Bay Guardian by the Deputy Village Clerk.

On motion by Member Blumin, seconded by Member Hadjandreas and unanimously carried, with Member Kaufman not present and Member Burkett abstaining, the Board approved the minutes of the meeting held on February 28, 2017.

1st ITEM: ZV2-2017:

The application of Ron Israeli and Nancy Lippman Israeli to maintain 3 electrical junction boxes with respect to property known as 1454 Ridge Road and designated as Section 26, Block C, Lot 257 on the Land and Tax Map of Nassau County was approved conditioned upon installation of adequate evergreen screening for the electrical panel located adjacent to Ridge Road to the satisfaction of the Board of Zoning Appeals.

It was moved by Chairman Mohr, seconded by Member Blumin and unanimously carried, with Member Kaufman not present, that the proposed landscape screening is approved subject to field verification after installation.

2nd ITEM: ZV3-2017:

The application of Kevin and Maureen McNulty to install a pool and patio with respect to property known as 1240 Moore's Hill Road and designated as Section 26, Block E, Lot 85 on the Land and Tax Map of Nassau County was approved subject to submission of a landscape plan depicting solid fencing and dense evergreen landscaping along the easterly property line to the satisfaction of the Board of Zoning Appeals.

It was moved by Member Blumin, seconded by Member Hadjandreas and unanimously carried, with Member Kaufman not present, that the landscape plan submitted by the applicant is approved.

3rd ITEM: ZV4-2016/ZS5-2016:

The Board then considered its decision on the application of Todd E. Andrews, AIA on behalf of Harold Reese to construct a new single-family dwelling and swimming pool where the lot does not have frontage on a street of at least 150 feet in violation of Section 145-5(A)(2) of the Laurel Hollow Village Code -- 0 feet is proposed; and where the principal building is not setback 60 feet from every street line in violation of Section 145-5(B)(1) of the Laurel Hollow Village Code -- 50.44' is proposed. In addition, the proposed construction will disturb very steep and severely steep slopes as shown on the: Slope Analysis prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 12/24/2015; Site Plan prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 2/22/2017; Tree Removal Plan prepared by Bayview Landscape Architecture dated 9/28/2016 and last revised on 2/13/2017; and, the Map prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 9/28/2016. The relief sought is with respect to property located at Ridge Road and designated as Section 26, Block C, Lots 2011 and 2024 on the Land and Tax Map of Nassau County.

The public hearing in connection with this application was closed on February 28, 2017 and, at that time, the Board reserved decision.

It was noted for the record that the application for variances under Case No. ZV4-2016 was deemed Type II under SEQRA.

The Board then determined the variance applications under Case No. ZV4-2016 as follows:

With respect to the application for a variance in connection with Section 145-5(B)(1) of the Laurel Hollow Village Code which requires that a principal building must be setback at least 60 feet from every street line (50.44' is proposed), it was moved by Member Hadjandreas, seconded by Member Blumin and unanimously carried, with Member Kaufman not present, that the application be approved.

With respect to the application for variance in connection with Section 145-5(A)(2) of the Laurel Hollow Village Code which requires frontage on a street of at least 150 feet (0 feet is proposed), it was moved by Chairman Mohr, seconded by Member Blumin and unanimously carried, with Member Kaufman not present, that the application be approved.

The Board then considered the application for slope disturbance under Case No. ZS5-2016.

It was moved by Member Blumin, seconded by Member Hadjandreas and unanimously carried, with Member Kaufman not present, that the Board enact a conditional negative declaration under SEQRA in accordance with the recommendation of the Village Engineer. The aforesaid negative declaration is conditioned upon a requirement that the proposed

development not result in disturbance of any portion of the property under application which is located in the severely steep slope category.

It was moved by Chairman Mohr, seconded by Member Blumin and unanimously carried, with Member Kaufman not present, that the application be approved in accordance with the Site Plan dated 8/29/2015 last revised on 2/22/2017 and Landscape Plan--Sheet L1.1 and Details--Sheet L1.2 both dated 11/9/16 last revised 11/15/16. (It was also noted that approval of the Landscape Plan and Details is subject to Planning Board approval of a tree removal application by the applicant and subject to any modifications of the Landscape Plan that may be required by the Planning Board) and subject to the following conditions:

1. There shall be no disturbance of any severely steep slopes--compliance with this condition must be verified by the Village Engineer;
2. There shall be no expansion of the footprint of the proposed dwelling as depicted on the approved Site Plan; and,
3. There shall be no accessory structures other than those depicted on the approved Site Plan with the exception of a simple wooden staircase or similar structure as set forth in the Village Code but only after application to this Board pursuant to Village Code Section 145-12(B)(3).
4. The access driveway shall be relocated to create a more direct route to the property from Ridge Road. This condition is subject to execution by the adjoining property owner of any documents legally required to effectuate the relocation of said driveway. In the event the adjoining property owner does not execute such legal documents, access shall remain as presently exists.

A copy of the approval Resolution with detailed Findings of Fact will be affixed to these minutes.

The Board then attended to administrative matters.

There being no further business, the meeting was adjourned at 8:10 PM.

Russell A. Mohr

Russell Mohr, Chairman

08/15/2017

Date

Marcia Kramer Mayer	1320 Ridge Road, Laurel Hollow, NY
Edward Ross, Esq. (on behalf of Marcia Kramer Mayer)	100 Garden City Plaza, NY
James Murphy, Esq. (on behalf of Harold Reese)	1045 Oyster Bay Road, East Norwich
Michelle Antonelli	26 W End Avenue, Massapequa, NY
Manuel Barriola	1640 Moore's Hill Road, Laurel Hollow, NY

Case No. ZS5-2016
INC. VILLAGE OF LAUREL HOLLOW - BOARD OF ZONING APPEALS
TODD E. ANDREWS, AIA ON BEHALF OF HAROLD REESE
APPLICATION FOR SLOPE DISTURBANCE

WHEREAS, on November 15, 2016 and February 28, 2017, the Board of Zoning Appeals of the Village of Laurel Hollow held a public hearing relative to the application of Todd E. Andrews, AIA on behalf of Harold Reese to construct a new single-family dwelling and swimming pool where the proposed construction will disturb very steep and severely steep slopes as shown on the Slope Analysis prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 12/24/2015; Site Plan prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 2/22/2017; Tree Removal Plan prepared by Bayview Landscape Architecture dated 9/28/2016 and last revised on 2/13/2017; and, the Map prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 9/28/2016. The relief sought is with respect to property located at Ridge Road and designated as Section 26, Block C, Lots 2011 and 2024 on the Land and Tax Map of Nassau County; and

WHEREAS, a legal notice was published in the Oyster Bay Guardian on November 4, 2016 and February 17, 2017 and said notice was appropriately posted as required by the rules of the Village; and

WHEREAS, affidavits of mailing to the persons listed in the files were presented by the applicant; and

WHEREAS, the Nassau County Planning Commission indicated no objection or modification; and

WHEREAS, the Board Members did visit the site and observed the topography as it exists today; and

WHEREAS, the Board, as lead agency, did deem the project to qualify as an unlisted action under SEQRA and issued a conditioned negative declaration with respect thereto, having determined that the relief requested will not have an adverse impact upon the environment provided that there is no disturbance of severely steep slope areas; and

WHEREAS, the Village Engineer indicated that the Slope Analysis prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 12/24/2015; the Site Plan prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 2/22/2017; the Tree Removal Plan prepared by Bayview Landscape Architecture dated 9/28/2016 and last revised on 2/13/2017; the Map prepared by Bladykas & Panetta L.S. & P.E., P.C., dated 8/29/2015 and last revised on 9/28/2016 and the Landscape Plan prepared by Bayview Land Landscape Architecture (Landscape Plan--Sheet L1.1 and Details--Sheet L1.2 both dated 11/9/16 last revised 11/15/16) are generally acceptable; and

WHEREAS, all who wished to be heard were heard including representatives of the applicant and representatives of objector Marcia Kramer Mayer residing at 1320 Ridge Road, Laurel Hollow.

NOW, THEREFORE, BE IT RESOLVED that the Board voted unanimously to approve the application in accordance with the Site Plan dated 8/29/15 last revised on 2/22/2017 and Landscape Plan--Sheet L1.1 and Details--Sheet L1.2 both dated 11/9/16 last revised 11/15/16 upon the following conditions:

1. There shall be no disturbance of any severely steep slopes--compliance with this condition must be verified by the Village engineer;
2. There shall be no expansion of the footprint of the proposed dwelling as depicted on the approved Site Plan; and,
3. There shall be no accessory structures other than those depicted on the approved Site Plan with the exception of a simple wooden staircase or similar structure as set forth in the Village Code but only after application to this Board pursuant to Village Code Section 145-12(B)(3).
4. The access driveway shall be relocated to create a more direct route to the property from Ridge Road. This condition is subject to execution by the adjoining property owner of any documents legally required to effectuate the relocation of said driveway. In the event the adjoining property owner does not sign such legal documents, access shall remain as presently exists.
5. It is understood that all rules and regulations of the Village and any other applicable jurisdiction continue to apply, all fees must be paid, and all plans and development must be to the satisfaction of the Building Department and Village Engineer; and,
6. Failure to comply with any of the conditions of this approval may result in stop work orders, suspension or revocation of building permits, withholding of Certificate of Occupancy and any other remedy the Village may require.

The Board's Findings of Fact in connection with the subject approval are as follows:

1. The premises under application (hereinafter "premises") is known as Section 26, Block C, Lots 2011 and 2024 on the Nassau County Land and Tax Map.
2. The premises has a lot area of 2.08 acres, which exceeds the minimum required lot area of 2 acres required in the Residence Zoning District of the Village wherein the premises is situated. The premises is presently undeveloped.
3. Most of the premises consists of areas defined as "very

steep slope” or “severely steep slope” in Section 145-2 of the Village Zoning Code.

4. In fact, nearly the entire parcel contains slopes greater than 15% and, as noted above, falls within the definition of either “steep slope”, “very steep slope” or “severely steep slope” set forth in a Section 145-2 of the Village Zoning Code. As a result, slope disturbance approval is necessary in order to allow for development of this parcel.
5. Public hearings were held in connection with this application on November 15, 2016 and February 28, 2017. Documentary and testimonial evidence was provided by the applicants’ representatives. Documentary and testimonial evidence was also provided by representatives of an objector to the relief sought. Post hearing submissions were also accepted by the Board.
6. Section 145-11(B)(2) of the Village Zoning Code discusses the legislative intent expressed by the Board of Trustees regarding disturbances of “steep slopes,” “very steep slopes” and “severely steep slopes”:

“(2) Regulation of development which affects steep, very steep or severely steep slope lands can eliminate, or at least minimize, the degradation of these important environmental features while still allowing the reasonable use of private property. This can be done by requiring development design which prohibits, except for special cases, the disturbance of severely steep slopes and avoids the disturbance of steep or very steep slope areas wherever practical. Where avoiding the disturbance of all steep or very steep slope areas may be impractical, any such disturbance shall be conducted in accordance with proper and acceptable engineering practices which minimize the extent of such disturbance. The prohibition of development on severely steep slopes, except in special cases, and the avoidance of development on steep or very steep slope areas may affect development density in order to achieve the Village’s legislative intent.”
7. Section 145-12(D) of the Village Zoning Code states, in relevant part, as follows, regarding the manner in which this Board must determine applications to disturb slopes:

“In arriving at its decision, the approving authority shall

consider at least the following:

1. The extent to which the proposed action, including any mitigation which is offered, is consistent with the legislative intent of the Board of Trustees of the Village of Laurel Hollow as set forth in this Chapter and is necessary in order to make at least a minimally reasonable use of the property, not the maximum use.
2. All evidence offered at the public hearing.
3. All permits and reports issued or submitted by any Village, county, state or federal agency or by any expert retained by the approving authority.
4. All relevant facts and circumstances, including, but not limited to, the following:
 - a. The environmental impact of the proposed action.
 - b. The suitability of the proposed action for the area where it is proposed.
 - c. Alternatives to the proposed action which would eliminate the need for the requested permit or would reduce the potential impact of the requested action.
 - d. The nature and extent of any mitigation proposed by the applicant.
 - e. Other mitigation which would serve to further reduce any potential adverse environmental impacts, including a reduction in the nature or scale of the proposed action."
8. The Board finds that the proposal as approved is consistent of the legislative intent of the Board of Trustees of the Village which seeks reasonable development of sloped parcels while ensuring that slope disturbance is minimized to the maximum extent practicable. (See Zoning Code Section 145-12(D)(1)).
9. Village Code Section 145-11(B)(2) states, in relevant part: "Where avoiding the disturbance of all steep or very steep slope areas may be impractical, any such disturbance shall be conducted in accordance with proper and acceptable engineering practices which minimize the

extent of such disturbance.”. The Board finds that avoiding disturbance of steep and very steep slopes in this case to be impractical and that the plans submitted and approved herein, minimize the extent of such disturbance to the greatest extent practicable.

10. In rendering its decision herein, the Board studied, analyzed and considered all evidence offered at the public hearings as well as all submissions made to the Board both by the applicant and by the objector (See Zoning Code Section 145-12(D)(3)). The proposed dwelling is of modest size (footprint of 2,460 square feet and total gross floor area of 4,752 square feet) when compared to typical homes constructed on two-acre parcels in the Village. Further, the home was designed and sited on the property in a manner which will minimize slope disturbance to the greatest extent practicable and which will mitigate impacts to surrounding properties--also to the greatest extent practicable.
11. The Board also considered the testimony of James Antonelli, P.E., the Village Engineer, as well as his recommendations, pursuant to the Board's obligations under the New York State Environmental Quality Review Act. (See Zoning Code Section 145-12(D)(3)). In fulfilling its obligations under the New York State Environmental Quality Review Act, the Board determined that environmental impacts resulting from the proposed development, both to the premises and to surrounding properties, have been mitigated to the maximum extent practicable.
12. The Board concludes that the application should be approved in accordance with the conditions set forth above. The condition requiring that there be no disturbance of areas defined as a “severely steep slope” allows for reasonable development of the parcel while protecting its natural features to the greatest extent practicable. The conditions precluding expansion of the footprint of the proposed dwelling and accessory structures other than those depicted on the approved Site Plan provide additional protections. Further, the development is suitable for the parcel since the surrounding area is developed in a similar fashion. There are no suitable alternatives which would eliminate the need for the requested approval.

VILLAGE OF LAUREL HOLLOW BOARD OF ZONING APPEALS
AREA VARIANCE FINDINGS AND DECISION

A public hearing of the Board of Zoning Appeals was held in the Village Hall, Village of Laurel Hollow, on 11/15/2016 & 2/28/2017 at 7:30 pm & 7:00 pm relative to the following matter:

Applicant: Todd E. Andrews, AIA On behalf of: Harold Reese

Property Located at: Ridge Road, Laurel Hollow

Sec. 26 Blk. C Lot(s) 2011 & 2024

Zoning District: Residential Case #: ZV4-2016

Requirement for which Variance is requested: Principal building is not set back at least 60 feet from every street line. 50.44 feet is proposed.

Applicable Section(s) of Chapter 145-5(B)(1)

At said hearing the Board considered the following factors and made determinations as stated.

1) Will an undesirable change be produced in the character of the neighborhood or be a detriment to nearby properties?

yes _____ no X Reason: See attached Findings of Fact

2) Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?

yes _____ no X Reason: See attached Findings of Fact

3) Is the variance requested substantial?

yes _____ no X Reason: See attached Findings of Fact

4) Will the variance have an adverse impact on the physical or environmental conditions in the neighborhood?

yes _____ no X Reason: See attached Findings of Fact

5) Is the alleged difficulty self-created?

yes _____ no X Reason: See attached Findings of Fact

The Board of Appeals, after taking into consideration the above five factors, finds that:

The benefit to the applicant does not outweigh the detriment to the Neighborhood or community and therefore the variance requested is denied.

 X The benefit to the applicant does outweigh the detriment to the neighborhood or community, and the Board of Zoning Appeals further finds that variances of distance of principal building of Sections: **145- 5(B)(1)** of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because **See attached Findings of Fact** and for these reasons the variance is granted with conditions as indicated.

CONDITIONS: The Board of Zoning Appeals finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition #1: N/A

Adverse impact to be minimized: _____

Condition #2: N/A

Adverse impact to be minimized: _____

Condition #3: N/A

Adverse impact to be minimized: _____

INCORPORATED VILLAGE OF LAUREL HOLLOW
APPROVED / BZA

These plans were approved by the Board of Appeals of the Incorporated Village of Laurel Hollow. **This is not a permit.**

Applicant must now submit any and all additional documentation required by the Building Inspector in order to obtain a permit in a timely manner.

ZV4-2016

Case #

4/19/2017

Date

Russell A. Mohr

Signature, Chairman, BZA

Record of Vote on Motion as stated above:

**Motion to Approve by Member Hadjandreas
Seconded by Member Blumin**

<u>Member Name</u>	<u>Aye</u>	<u>Nay</u>
Chairman Mohr	X	
Member Blumin	X	
Member Kaufman	Excused	
Member Burkett	X	
Member Hadjandreas	X	

BOARD OF ZONING APPEALS
INC. VILLAGE OF LAUREL HOLLOW

FINDINGS OF FACT

Case Number: ZV4-2016

Hearing Date: November 15, 2015 and February 28, 2017

Relief Sought: Principal building is not set back at least 60 feet from every street line. 50.44 feet is proposed; Lot does not have front line frontage on a street of at least 150 feet; 0 feet is proposed.

Decision: Granted

This case concerns an application to construct a new single-family dwelling and swimming pool at premises on Ridge Road, Section 26, Block C, Lots 2011 and 2024. The parcel has a lot area of 2.08 acres.

Standard to be Applied:

New York State Village Law §7-712-b(3)(b) sets forth the standard to consider area variances such as those at issue herein:

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

In this case, the Board concludes that the benefit to the applicant sought by virtue of the requested relief outweighs any perceived negative impacts.

- (1) Whether an undesirable change will be produced in the character of the

neighborhood or a detriment to the nearby properties will be created by the granting of the area variance.

The evidence before the Board revealed that many parcels in this area of the Village do not maintain the required street frontage. Clearly, such a variance is not out of character for the area and will not adversely impact surrounding parcels since many are developed in a substantially similar fashion.

Regarding the front yard setback variance, the evidence demonstrated that it was required in order to minimize intrusion upon sloped land on the parcel and in order to reduce the number of trees to be removed from the property. In this case, the Board concludes that strict compliance with the front yard setback requirement is not necessary.

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance.

The evidence submitted demonstrated clearly that the variance for street frontage was necessary in order to develop the property.

Compliance with the front yard setback is feasible, but will result in additional slope disturbance and removal of additional trees. As a result, the variance is appropriate.

- (3) Whether the requested area variance is substantial.

The variance for street frontage might be viewed as substantial based upon a numerical analysis. However, when taking into account the totality of facts and evidence--the most important of which is that numerous parcels in the area have been developed in a similar fashion--the requested relief is not substantial.

With regard to the front yard setback, the Board concludes that the relief sought is not substantial since the intrusion is necessitated in order to reduce slope disturbance and tree removal.

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The record contains no evidence that would indicate that the area variances sought would have an adverse effect or impact upon physical or environmental conditions in the neighborhood or district.

- (5) Whether the difficulty is self-created.

In this case, the variance from street frontage requirements is required as a result of existing conditions and could not be characterized as self-created. The front yard setback variance can be characterized as self-created but under the facts of this case, it should nonetheless be granted for the reasons set forth above.

VILLAGE OF LAUREL HOLLOW BOARD OF ZONING APPEALS
AREA VARIANCE FINDINGS AND DECISION

A public hearing of the Board of Zoning Appeals was held in the Village Hall, Village of Laurel Hollow, on 11/15/2016 & 2/28/2017 at 7:30 pm & 7:00 pm relative to the following matter:

Applicant: Todd E. Andrews, AIA On behalf of: Harold Reese

Property Located at: Ridge Road, Laurel Hollow

Sec. 26 Blk. C Lot(s) 2011 & 2024

Zoning District: Residential Case #: ZV4-2016

Requirement for which Variance is requested: Lot does not have front line frontage on a street of at least 150 feet; 0 is proposed.

Applicable Section(s) of Chapter 145-5(A)(2)

At said hearing the Board considered the following factors and made determinations as stated.

1) Will an undesirable change be produced in the character of the neighborhood or be a detriment to nearby properties?

yes _____ no X Reason: See attached Findings of Fact

2) Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?

yes _____ no X Reason: See attached Findings of Fact

3) Is the variance requested substantial?

yes _____ no X Reason: See attached Findings of Fact

4) Will the variance have an adverse impact on the physical or environmental conditions in the neighborhood?

yes _____ no X Reason: See attached Findings of Fact

5) Is the alleged difficulty self-created?

yes _____ no X Reason: See attached Findings of Fact

The Board of Appeals, after taking into consideration the above five factors, finds that:

The benefit to the applicant does not outweigh the detriment to the Neighborhood or community and therefore the variance requested is denied.

X The benefit to the applicant does outweigh the detriment to the neighborhood or community, and the Board of Zoning Appeals further finds that variances of **front line street frontage** of Sections: **145- 5(B)(1)** of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because **See attached Findings of Fact** and for these reasons the variance is granted with conditions as indicated.

CONDITIONS: The Board of Zoning Appeals finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition #1: N/A

Adverse impact to be minimized:

Condition #2: N/A

Adverse impact to be minimized:

Condition #3: N/A

Adverse impact to be minimized:

INCORPORATED VILLAGE OF LAUREL HOLLOW
APPROVED / BZA

These plans were approved by the Board of Appeals of the Incorporated Village of Laurel Hollow. **This is not a permit.**

Applicant must now submit any and all additional documentation required by the Building Inspector in order to obtain a permit in a timely manner.

<u>ZV4-2016</u>	<u>4/19/2017</u>	<u>Russell A. Mohr</u>	
Case #	Date	Signature, Chairman, BZA	
Record of Vote on Motion as stated above: Motion to Approve by Chairman Mohr Seconded by Member Blumin	<u>Member Name</u>	<u>Aye</u>	<u>Nay</u>
	Chairman Mohr	X	
	Member Blumin	X	
	Member Kaufman	<u>Excused</u>	
	Member Burkett	X	
	Member Hadjandreas	X	

BOARD OF ZONING APPEALS
INC. VILLAGE OF LAUREL HOLLOW

FINDINGS OF FACT

Case Number: ZV4-2016

Hearing Date: November 15, 2015 and February 28, 2017

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This case concerns an application to construct a new single-family dwelling and swimming pool at premises on Ridge Road, Section 26, Block C, Lots 2011 and 2024. The parcel has a lot area of 2.08 acres.

Standard to be Applied:

New York State Village Law §7-712-b(3)(b) sets forth the standard to consider area variances such as those at issue herein:

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

In this case, the Board concludes that the benefit to the applicant sought by virtue of the requested relief outweighs any perceived negative impacts.

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the area variance.

The evidence before the Board revealed that many parcels in this area of the Village do not maintain the required street frontage. Clearly, such a variance is not out of character for the area and will not adversely impact surrounding parcels since many are developed in a substantially similar fashion.

Regarding the front yard setback variance, the evidence demonstrated that it was required in order to minimize intrusion upon sloped land on the parcel and in order to reduce the number of trees to be removed from the property. In this case, the Board concludes that strict compliance with the front yard setback requirement is not necessary.

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance.

The evidence submitted demonstrated clearly that the variance for street frontage was necessary in order to develop the property.

Compliance with the front yard setback is feasible, but will result in additional slope disturbance and removal of additional trees. As a result, the variance is appropriate.

- (3) Whether the requested area variance is substantial.

The variance for street frontage might be viewed as substantial based upon a numerical analysis. However, when taking into account the totality of facts and evidence--the most important of which is that numerous parcels in the area have been developed in a similar fashion--the requested relief is not substantial.

With regard to the front yard setback, the Board concludes that the relief sought is not substantial since the intrusion is necessitated in order to reduce slope disturbance and tree removal.

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The record contains no evidence that would indicate that the area variances sought would have an adverse effect or impact upon physical or environmental conditions in the neighborhood or district.

- (5) Whether the difficulty is self-created.

In this case, the variance from street frontage requirements is required as a result of existing conditions and could not be characterized as self-created. The front yard setback variance can be characterized as self-created but under the facts of this case, it should nonetheless be granted for the reasons set forth above.