

#014-22

Application # _____

28
Ward

**CITY OF STAMFORD
ZONING BOARD OF APPEALS**

Stamford Government Center
888 Washington Blvd.
P.O. Box 10152
Stamford, CT 06904-2152

Telephone 203.977.4160 - Fax 203.977.4100 - E-mail mjudge@stamfordct.gov

PLEASE PRINT ALL INFORMATION IN INK

1. I/we hereby apply to the Zoning Board of Appeals for:

- Variance(s)
- Special Permit
- Appeal from Decision of Zoning Enforcement Officer
- Extension of Time
- Gasoline Station Site Approval
- Motor Vehicle Approval:

New Car Dealer () Used Car Dealer () General Repairer () Limited Repairer ()

2. Address of affected premises:

80 Davenport Drive

06902

street

zip code

Property is located on the north () south () east (X) west () side of the street.

Block: 25 Zone: R-20 Sewered Property (X) yes () no

Is the structure 50 years or older (X) yes () No

Corner Lots Only: Intersecting Street: _____
Within 500 feet of another municipality: No (X) Yes () Town of _____

3. Owner of Property: Anya Kishinevsky

Address of Owner: 80 Davenport Drive, Stamford, CT Zip 06902

Applicant Name: Same as Owner

Address of Applicant: Same as Owner Zip _____

Agent Name: Leonard Braman, Esq., Wofsey, Rosen, Kweskin & Kuriansky, LLP

Address of Agent: 600 Summer Street, Stamford, CT Zip 06901

EMAIL ADDRESS: LBraman@wrkk.com

(Must be provided to receive comments from letters of referral)

Telephone # of Agent 203-354-1282 **Telephone # of Owner** c/o Agent

(CONTACT IS MADE WITH AGENT, IF ONE)

4. List all structures and uses presently existing on the affected property:

Existing 1 3/4 story house, pre-existing lawful non-conforming as to both side yard setbacks

5. Describe in detail the proposed use and give pertinent linear and area dimensions:

Proposed second-floor addition, with house required to be elevated for FEMA (flood zone) compliance, and

new garage

VARIANCES (complete this section for variance requests only) See a Zoning Enforcement Officer for help in completing this section

Variance(s) of the following section(s) of the Zoning Regulations is requested (provide detail of what is sought per the applicable section(s) of the Zoning Regulations):

Table III, Appendix B (Side Yard Setback, Total Side Yards Setback, and Building Area Requirements)

9.6 feet from one side, in lieu of 15.0 feet required

20.3 total side yards setback, in lieu of 35 feet required

18% Building Area/Lot, in lieu of 15% required

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Variance of the Zoning Regulations **may** be granted where there is unusual hardship in the way of carrying out the strict letter of the Regulations solely with respect to a parcel of land where conditions especially affect such parcel but do not affect generally the district in which it is situated. In your own words:

A. Describe the unusual hardship in being unable to carry out the strict letter of the Zoning Regulations:

See Attached Narrative

B. Explain why the variance(s) is/are the minimum necessary to afford relief:

See Attached Narrative

C. Explain why granting of the variance(s) would not be injurious to the neighborhood.

See Attached Narrative

SPECIAL PERMIT

(Complete this section **only** for special exceptions)

SPECIAL EXCEPTION is requested as authorized by Section(s) _____ of the Zoning Regulations.

Provide details of what is being sought:

MOTOR VEHICLE APPLICATIONS

(Complete this section **only** for Motor Vehicle/Service Dealers Applications) Provide details of what is being sought.

SIGNATURE REQUIRED FOR ALL APPLICATIONS

Leonard Braman, Esq.



Signature of: Agent Applicant Owner

Date Filed: 3/29/2022

Zoning Enforcement Officer Comments:

DECISION OF THE ZONING ENFORCEMENT OFFICER

(Complete this section only for appeals of zoning enforcement officer decision)

DECISION OF THE ZONING ENFORCEMENT OFFICER dated _____ is appealed because:

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**VARIANCE APPLICATION NARRATIVE
(80 Davenport Drive)**

Introduction & Background

Dr. Anya Kishinevsky (the “Applicant”) owns the property located at 80 Davenport Drive, Stamford in the R-20 One Family Residence District (the “Property”). She purchased the Property in 2018. The Property lies partially within the “AE (El. = 12)” flood zone and partially in the “VE (El. = 15)” flood zone. Situated on the Property is a 1 ¾-story single-family home built in 1967 in which the Applicant currently resides with her family, and which does not conform to FEMA’s minimum flood elevation requirements. Accordingly, the Applicant would like to raise the house’s first-floor elevation by 6.3 feet, construct an addition to the house while also improving its exterior facades and rooflines, and render the house FEMA-compliant.

The proposed raised structure will comply with zoning requirements for height, front yard setbacks, and rear yard setbacks. The existing house is currently lawful nonconforming as to side yard setbacks, and the raised structure will similarly be located within the side yard setbacks, thereby requiring a variance from the side yard setback requirements in Table III, Appendix B of the Stamford Zoning Regulations so that Dr. Kishinevsky can achieve a FEMA-compliant home. A prior variance was granted for side yard setbacks in 2018, but has since expired. Also, as a result of the need to raise the entire house by over 6 feet for FEMA compliance and the Property’s pre-existing grade and topography, the proposed new first-floor deck will have to be raised far beyond the maximum of 8 inches above grade required for it to be exempt from the definition of “Building Area” under the Zoning Regulations, and thus not count toward allowable building coverage.¹ This causes the proposed structure to exceed coverage requirements by 715 square feet, or 3% above the allowed 15% of Lot Area. Whereas, if the house did not need to be raised, the deck would be built at or near grade and would be entirely exempt from coverage. Accordingly, the Applicant requests a variance for coverage for the proposed structure, for 18% of Lot Area as opposed to 15%. Because the proposed variances are being sought in order to render the home FEMA-compliant, they should be granted.

¹ Under the Zoning Regulations, “*Building Area* shall also exclude decks, terraces, patios, pools or similar *Structures* not more than eight inches (8”) above adjacent grade....”

A Variance is Appropriate

Generally, a variance may be granted where it is shown that it will not substantially affect the comprehensive zoning plan and adherence to the strict letter of the zoning ordinance would cause unusual hardship unnecessary to the carrying out of the general purpose of the zoning plan. *Mayer-Wittmann v. Zoning Bd. of Appeals of City of Stamford*, 333 Conn. 624, 640 (Conn. 2019); *Kwesell v. E. Haven Zoning Bd. of Appeals*, 2017 WL 2758785, at *3 (Conn. Super. Ct. May 25, 2017). More specifically, our courts have held that variances are properly granted when they are sought to bring a building into compliance with FEMA and municipal flood regulations. *Mayer-Wittman* at 648; *Kwesell* at *5. In this case, the proposed variances will not affect the comprehensive zoning plan because they are being sought in order to comply with FEMA’s flood regulations, as codified in Section 15.B of the Zoning Regulations. Additionally, adherence to the strict letter of the Zoning Regulations would cause unnecessary, unusual hardship as described below.

A. Describe the unusual hardship in being unable to carry out the strict letter of the Zoning Regulations:

The enforcement of the strict letter of the side yard setback regulations would cause a substantial and unusual hardship for Dr. Kishinevsky, because her house is legally nonconforming as to side yard setbacks, but the requirement that she raise the existing house to make it FEMA-compliant requires construction of additional building height that, while within the existing nonconforming footprint, is outside the minimum side yard setbacks. Similarly, a strict application of the coverage regulations would unfairly penalize Dr. Kishinevsky for lifting her house by 6 feet to make it FEMA-compliant, by making her proposed new first-floor deck ineligible for the coverage exemption to which it would otherwise be entitled if she did not have to raise the house and the deck were built at or near grade.

B. Explain why the variance(s) is/are the minimum necessary to afford relief:

The side yard setback variances requested are the minimum necessary to allow the continued use of the pre-existing lawful nonconforming setbacks, and the coverage variance

requested (an additional 3%, or 715 square feet) is the minimum necessary to allow the modest increase in coverage sought by the Applicant for the deck.

C. Explain why granting of the variance(s) would not be injurious to the neighborhood.

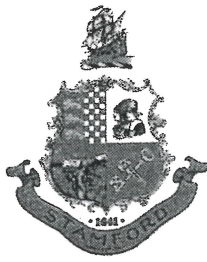
The Applicant is proposing to reduce existing nonconformity in the Property, by bringing the house into conformity with the flood zone regulations. There will be no negative consequences to the neighborhood or the environment from the proposed additional coverage. The proposed renovated structure will remain well within the maximum height and minimum rear yard setback under the regulations. The proposed additional coverage is entirely attributable to the proposed covered deck on the elevated first floor, and thus will not in any way increase the amount of impervious surface or stormwater runoff on the Property. Also, because the additional coverage proposed is on a covered deck behind the house within the existing side yard setbacks, it will not be visible from the street, nor will it have any negative visual impact on neighboring properties, most of which have been similarly expanded in size.

* * *

A variance is especially proper here because it is being sought for the purpose of complying with FEMA's flood elevation requirements, which are intended to reduce the safety and financial hazards that nonconforming structures present to both landowners and the general public in the event of a flood. For all of the foregoing reasons, we ask this Board to grant the requested variances.

THE APPLICANT,
DR. ANYA KISHINEVSKY

By: /s/ Leonard M. Braman
Leonard M. Braman, Esq.
Wofsey, Rosen, Kweskin & Kuriansky, LLP
600 Summer Street
Stamford, CT 06901-1490
T: 203-327-2300/F: 203-967-9273
Juris No.: 068550



**CITY OF STAMFORD
ZONING BOARD OF APPEALS
APPLICATION PACKET**

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Joseph Pigott, Chair
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Nino Antonelli
Claire Friedlander
Lauren Jacobson

Alternate
Ernest Matarasso
Matthew Tripolitsiotis
Jeremiah Hourihan

Land Use Administrative Assistant
Mary Judge

ALL APPLICANTS MUST MAKE AN APPOINTMENT WITH THE ZONING ENFORCEMENT OFFICE FOR PLAN REVIEW OF ZBA APPLICATIONS AT LEAST TWO WEEKS PRIOR TO THE APPLICATION DEADLINE.

Zoning Enforcement: *Mary Judge* Date: *3/31/22*

Is the project situated in the coastal boundary? Yes () No ()

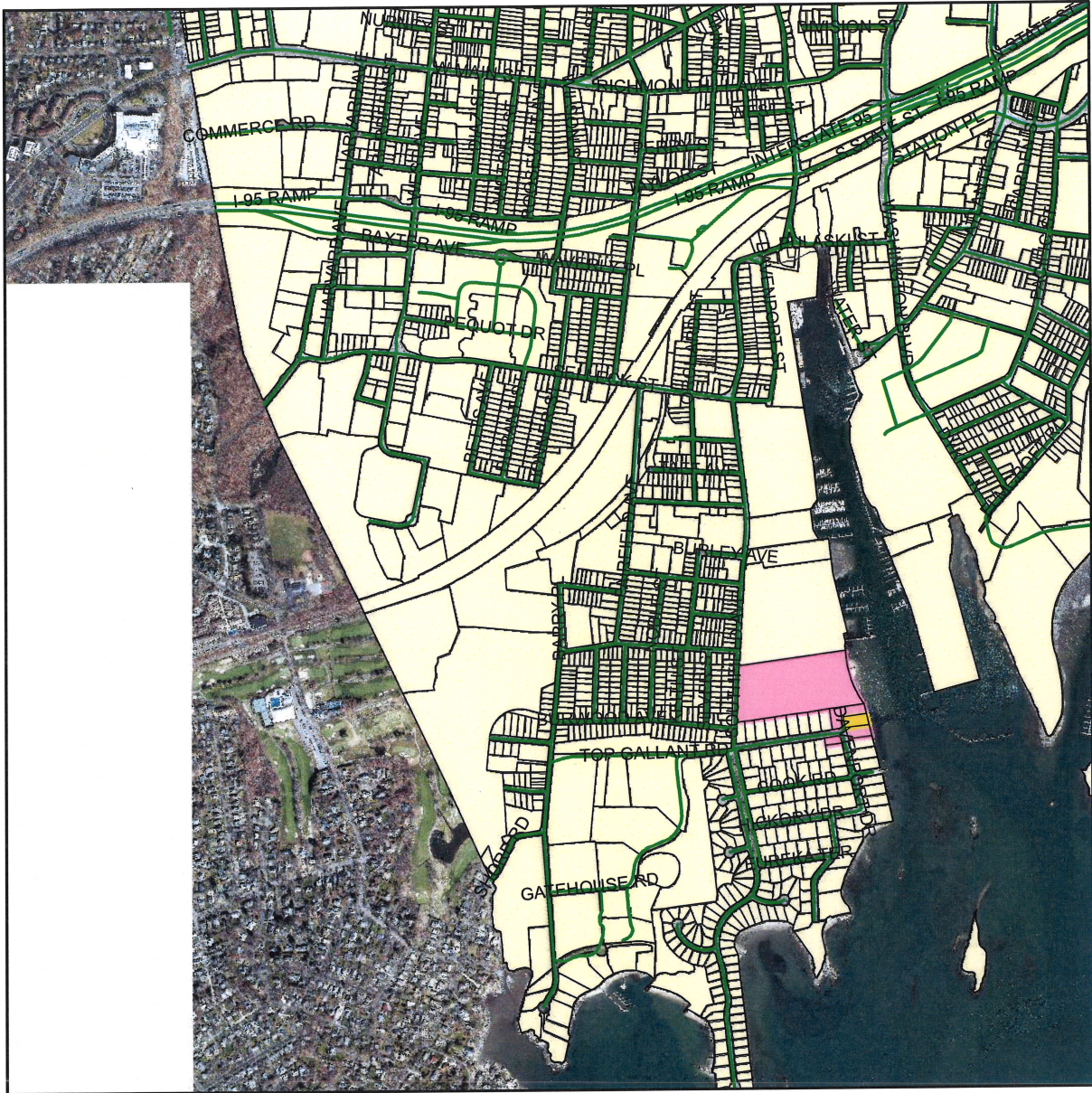
Is the project exempt from the coastal regulation? Yes () Exemption # _____ No () N/A ()

Environmental Protection: *[Signature]* Date: *3/31/22*

CAM Review by: Zoning Board ZBA

#014-22

80 DAVENPORT DRIVE (PARCEL ID #002-0629) 100 FEET ABUTTERS MAP



Stamford Assessor's Office

Mapping Division





ZBA Application #014-22
80 Davenport Drive

Date: 4/11/2022

