

**VILLAGE OF POMONA
ZONING BOARD OF APPEALS MEETING
JULY 24, 2024 – 7:30PM**

PRESENT:

Jesse Kaufman, Zoning Board of Appeals Chairman

Alan I. Lamer, Zoning Board Member

Bill Baker, Zoning Board Member

Kevin Dock, Zoning Board Member

ALSO PRESENT:

David MacCartney, Village Attorney

Louis Zummo, Village Building Inspector

Martin Spence, Village Engineer

Jenna Antoine, Village Clerk

Jesse Kaufman called the meeting to order at 7:45 pm.

Board Member Kevin Dock will be arriving late to the meeting, but will be in attendance to the meeting. We have a quorum, so we can begin.

Alan I. Lamer made a motion to approve the Meeting Minutes from June 26, 2024. The motion was seconded by Bill Baker. Upon vote, the motion passed 3-0-1.

Joseph Gutman - 23 Klingher Court Pomona NY 10970

Tax Roll# 24.12-2-21

Jesse Kaufman made a motion to open the public hearing for the above property. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 3-0-1.

No Public Comment

Joseph Gutman, the homeowner was present for the above project. I am requesting the board to approve the fence I put up in my front yard, to enclose my swimming pool. I installed a six foot fence and the code only allows a 4 foot fence, so I am asking for a variance.

Martin Spence:

I have no engineer issues. I recommend some screening with street trees, but it is up to the board's discretion.

Jesse Kaufman:

The fence is already built correct?

Joseph Gutman:

Yes

Bill Baker made a motion to close the public hearing for the above property. The motion was seconded by Alan I. Lamer. Upon vote, the motion was carried by all present, passes 3-0-1.

Bill Baker made a motion to approve the above area variance. The motion was seconded by Alan I. Lamer. Upon vote, the motion was carried by all present, passes 3-0-1.

Bill Baker made a motion for the attorney to prepare the resolution. The motion was seconded by Alan I. Lamer. Upon vote, the motion was carried by all present, passes 3-0-1.

Moses Goldberger – 68 Call Hollow Road Pomona NY 10970

Tax Roll# 24.16-1-2

Jesse Kaufman made a motion to open the public hearing for the above property. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 3-0-1.

Board Member Kevin Dock arrived to the meeting.

Paul S. Baum, the attorney for the above project was present. So we're here before you to obtain variances to reconstruct the house on a lot as I pointed out in my narrative. The prior owner came before this board in 2008 and was asking basically for the same variances that we're seeking right now. My client purchased the property because they just weren't aware that these variances had expired because you know they have a shelf life of about two years or one year if you don't do construction.

When I was here last month, I made a representation to the board that we're seeking to build the same exact house on the same footprint that was approved by the board in 2008. And that is not the truth. We did some additional digging because there were inconsistencies between the variances that were granted by the board and the plans and we couldn't figure out the inconsistencies. So I met with Anthony Celentano, who was the surveyor in 2004 and also did the plan in 2004. We found out that there was a different plan that was presented to the board in 2008, which differs from the plan that we show. So I did a new narrative summary to the board and in that summary I did show the different layout it would be, which is Exhibit C of my narrative. This is the plan that we submitted for our variances it's a plot plan for 68 Call Hollow, which was last revised on June 16, 2024 prepared by Anthony Celentano. This was the plan that we submitted that we originally said this is the same plan that variances were granted before in 2008. Turns out that's not correct. So this plan, just you know is sort of a rectangular house, it's further back from the right. This plan is based upon the actual survey on the house that stood before in 2004. So let me show you that exhibit which I believe is Exhibit D in your narrative is the Duffy survey. So if you take a look at the Duffy survey you can see where the house was and that is the same location that we're proposing with our new plan. This plan proposes to build a house in the same footprint that existed in 2004, when the house is still there, so if you can see the houses here and the houses here, same driveway and we added a K-turn now because Mr. Spence recommended one. We added the K turn with pervious pavers so we're not increasing the lot coverage. So that's the plan that we're proposing.

Martin Spence:

I prepared a report dated May 21, 2024. We're looking at this lot as a vacant lot.

Engineering comments:

S-1 Applicant shall provide subsurface detention (seepage pits) for the mitigation of all developmental coverage created for the new improvements. "Roof leader to swale" is not acceptable and all roof leaders shall be connected to a subsurface detention system. Provide details and notes. Footing drain shall discharge to a location not to impact adjacent properties including the roadway. The applicant is stating they will comply with the request at the time of building permits.

S-2 The applicant is showing a k turn now, so that satisfies that comment.

S-3 Is dealing with retaining walls, they are very close to the property line. We would like to see that detailing. The applicant said they will provide and comply with this at the time of building permits.

S-4 The applicant will provide a sanitary sewer permit. Is there a sanitary sewer load in the frontage? It is not shown on the survey.

Eliezer Brecher (The expediter for the project):

No it ends before that. Our office has been in touch with the Haverstraw Sewer District supervisor and they told us there is a way to connect to the sewer, but it is a process, but it is feasible and can be done. We can either do a sewer extension or a grinder pump.

Martin Spence:

They've revised the scale the plan that's acceptable. They submitted coverage calculations on a separate sheet, so that takes care of my S-5 and S-6 comment.

S-7 Any approvals shall include a landscaping and stabilization plan including foundation plants, trees and site landscaping.

S-8 Show road opening detail and pavement restoration in anticipation of sewer work. The applicant responded and said they will do this at the time of building permits.

S-9 Provide areas on site for any construction parking. The applicant responded and said they will provide parking on the driveway.

S-10 Existing driveway is in poor condition and notes "apron to remain" or existing driveway to be utilized" may refer to grades, where new pavement would be anticipated. We would like it to be reconstructed to allow water flow to existing swell to the north.

Louis Zummo:

I have no additional issues. All of my issues were addressed by the engineer.

Paul Baum:

I think the definition of building coverage should be amended. We believe that what the code allows is 20%. So we are going to 24% and we thought the local law passed in 2022 was saying lot coverage allowed was 20%. We thought we only needed a 4% variance, but now it is a 9% variance needed.

David MacCartney:

The issue of what is the right interpretation of the code is not before the board because no one is taking an appeal from that. The building inspector has made a determination and you know it is not up to you to pass judgment on that, unless you file an appeal. So I think for the purposes of today, we will review this application and you've got to take what Lou has determined as the right number.

Paul Baum:

If the applicant is willing to do that, then if he does pervious pavers on the entire driveway, I'm sure that brings the lot coverage down significantly and we'll accept that as a condition and mitigation of any potential runoff. Just to speak about the discussion that Lou and I were having for about lot coverage. In the memo from Mr. Nugent you have two different measurements in your code. You have building coverage and you have lot coverage. Mr. Nugent's memo was directed to building coverage. We're not asking for a building coverage variance, we're asking for a lot coverage variance and lot coverage variance only pertains to the area of the lot covered by buildings and structures that have foundations or can be roofed over the building coverage including the entire area and excluding any buildings or structures completely below ground. So if our lot coverage was 24% we believe that the code requirement is 20% on maximum building coverage 15% I agree with and that's what Mr. Nugent's letter says but we're only at 10.9% on the building coverage, so we comply.

Louis Zummo:

Is the driveway entirely below ground? If it is not, it is considered a structure.

David MacCartney:

Do you know what the number would be if you replace the whole driveway with pervious pavers?

Martin Spence:

If they replace the whole driveway with pervious pavers, they will no longer need a lot coverage variance, that would drop it 10% and they would be below 15%, which is what is allowed.

Donald Branson

Address: 168 Camp Hill Road Pomona NY 10970

I don't know where they get these measurements for the property. It is only 40 feet wide and 135 feet long. I had to put a berm up beside my garage to stop the water from coming in. This house at 68 Call Hollow Road was torn down without a permit. There was an oil tank in the cellar that leaked out onto the road and they tore it down, with no permit. This whole property is a disaster area. He broke the ordinance of the slope law. There is now gas, no electric and no sewer within 150 feet of this house. I can't get the sewer to work and it is almost in front of my house. They said the town will not clear up the road, to extend the sewer. Where do you go put the septic system if they filled it in with dirt. They never pumped it for two years and I smell sewage. When it rains, I still smell it. I appreciate you listening to me and I hope you take this into consideration. If this is approved, it is going to ruin this village.

Jeff Solomon

Address: 74 Call Hollow Road Pomona NY 10970

I'm on the opposite side from where the previous neighbor lives, who was just speaking and also adjacent to this lot. One thing that just came up as a surprise and I've already confirmed with my neighbors in the area, whatever variance was passed back in 2008, there was no proper notice. I have no doubt if you went back and looked back at the notes probably nobody spoke at the public hearing for it. So it may have just been pushed right through. If an applicant is a builder, seeking a variance of the law for the purpose of financial gain, I do not believe that rises to standard hardship. Also, you can see the owner has not been paying his taxes at all. Fortunately they have exposed the fact that the attorney for the applicant kept referring to it over and over and over again. I guess it was the idea that he repeated it enough times somehow you would buy into it. Expired is expired. The resolution is expired and it should bear no weight and have no influence on the decision that the board makes now regarding the house. One of the major reasons perhaps the major reason the village was formed was to stop the practice of the development and building of homes on these tiny postage stamp lots. This property is in fact 16 acres, approximately 6,500 square feet. The minimum lot size as you know is approximately 40,000 square feet, which is approximately an acre. I've provided you with a copy of the tax map measurements of the property provided to me by the Town of

Haverstraw Assessor's office. Those measurements from the town I presume are accurate. The applicants measurements are wrong and are overstated and looking at the letter that went out that is incorrect as well. Slope ordinance 119-2A came into being because the village in its early stages would be proposing for subdivision and that developer wanted to chop up, up and down the slope and the village fortunately saw what would happen if that development was able to be flooded, more flooding would happen if steep slopes are being disturbed. The slope ordinance states that it shall be unlawful to create a new steep slope or to disturb an existing steep slope or to create any other disturbance of land or slope, including installation of retaining walls. While that's exactly what this previous owner did without permit, it was chopped up and made things far worse to get something that they wanted and it was illegal.

Moses Goldberger (Homeowner):

I bought this house about two three years ago. I did the due diligence. We saw there was a house there and then I saw the proof whenever we saw the paperwork for the new house. I thought everything was okay to go, so we bought it. And then once we started to get permits, we got stuck. And basically I spent a lot of money here. I am begging to get this approved. It's a lot of money for me. I'm paying the taxes every year. I don't know what he is saying about taxes and you can look it up. I'm ready to do whatever is needed to do. I am personally a nice guy and I don't know what the neighbors have against me. I'm going to be a good neighbor. So thank you.

Louis Zummo:

I'm going to go through the files on Friday and see if I can find the demo permit, to see if the demo was done correctly. I know there is a building permit, but I don't ever remember seeing a demo permit.

Kevin Dock:

I would appreciate more information before making a decision, which could possibly make things worse. From an engineer perspective, a number of issues need further details. I would like more information on water runoff issues, if there is a septic tank or not, drainage and a possible illegal retaining wall built.

Kevin Dock made a motion to keep the public hearing open for the above address until the next meeting, on September 25, 2024 at 7:30 pm. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

At 9:37 pm Jesse Kaufman made a motion to adjourn until 9:50 pm.

At 9:50 pm Jesse Kaufman added to the record that we have been here since 7:30 pm and he is cognizant that some board members have been traveling and have not eaten anything yet and also have not been home yet.

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 in the Village of Pomona

Tax Map as Section 32.08, Block 1, Lots 53, 54, and 55.2, and Section 32.12, Block 1, Lots 25, 26, 27, 28, 29.1, 29.2, 30, 31, and 33

12 parcels of land totaling 119.55 acres

The above applicant went before the board for the below 3 applications:

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Appeal of Denial Determination of Building Inspector for Special Use Permit Application

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Appeal of Denial Determination of Building Inspector for Site Plan Application

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Use Variance Application

The below people were present to represent the above applicant:

Attorney, Daniel Ruzow from Whiteman Osterman & Hanna LLP. Address is 1 Commerce Plaza 19th floor, Albany, NY 12260.

Dennis Rocks from Brooker Engineering PLLC. Address is 74 Lafayette Ave #501, Suffern, NY 10901.

Attorney, Joseph Churgin from Savad Churgin. Address is 55 Old Nyack Turnpike # 209, Nanuet, NY 10954.

David MacCartney:

Let me be clear, there's three applications right, which is unusual. They're all related and they're looking for related legal, you know, there's different ways to proceed here procedurally, because they're all related. They are all the same applicant with you know nearly, if not exactly the same issues. One option rather than open one and then complete it and then open another, which I would recommend is that you open for three public hearings at the same time and do them concurrently, so they have a concurrent record on each of the three does the applicant have any thoughts or any opposition to the board on that?

Joseph Churgin:

The applicant agrees 100%. All three of them should be open at the same time. Good.

David MacCartney:

I think that makes most sense. It's most efficient. It would be appropriate to make a motion to open all three public hearings brought by the applicant, Congregation Rabbinical Institute of Tartikov, Inc. One for the use variance application, one on the appeal for the denial of the site plan application and one for the denial of the special permit application for a special permit. So all three. Is there a motion to open all three public hearings and run them concurrently?

Alan I. Lamer made a motion to open all three public hearings for the Congregation Rabbinical Institute of Tartikov, Inc. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Joseph Churgin:

Good evening, thank you for hearing us. I do appreciate your attention. I am an attorney and the attorney for the applicant. First, I think we need to really make an understanding as to what's going to happen with respect to SEQRA because we submitted our application on April 26th. We were here in front of you last month, which was June 26th. At that meeting essentially there has to be a determination made as to who the lead agency is whether it's going to be you, the zoning board whether it's going to be the planning board or whoever. I think the appropriations process was a letter should have been sent out to all the other involved agencies to decide who will be the lead agency and I just don't know if that has happened yet. So I guess it's a question from me to you.

David MacCartney:

Yeah, no, it's a fair question. So SEQRA you know, what the entire project is would be considered a type one action, I think, from start to finish. I've made some recommendations to you all, and then circulated to you a resolution that addresses the SEQRA issues and various procedures and in regard to typing of the action.

Joseph Churgin:

So before you vote, I just want to add one thing. Mr. MacCartney, you mentioned one of the variances that we're seeking. And that's that it's an unaccredited educational facility. There were two variances and I just want to make sure everyone in their mind when they're making this decision is aware of the second one and the second one essentially is we don't believe that we're building dormitories. And we don't comply with your dormitory law. It's essentially an adult student housing type of application we're making so it's two different use variances. We need both of them to be granted in order for us to go forward. But I just wanted to make that clear because you only mentioned one.

Alan I. Lamer made a motion to approve the resolution determining action type and other proceedings under SEQRA for the appeal for the denial of the site plan application. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Alan I. Lamer made a motion to approve the resolution determining action type and other proceedings under SEQRA for the use variance application. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Alan I. Lamer made a motion to approve the resolution determining action type and other proceedings under SEQRA for the appeal for the denial of the special permit application. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Daniel Ruzow:

My name is Daniel Ruzow and we're also representing the Congregation Rabbinical Institute of Tartikov, Inc. Tartikov is proposing to establish an unaccredited Rabbinical Institute to educate up to 255 students in a 42,000 square foot building on its 119.55 acre site located on Route 202 and Route 306. It includes an associated student and faculty housing in the 255 student faculty units, with accessory support facilities, which as we indicated before, is not authorized for that type of housing under the village code, for which we applied for a variance. Due to religious beliefs the students of the institute must reside on campus with their families. The project is located in the R-40 zoning district. You know, we will be happy to provide some additional comments, but I think we understand the logic of what you're doing. But you will see you have to be established as the lead agency within the next 30 days, in order to take those further actions as the lead agency.

Dennis Rocks:

Good evening everybody, I am Dennis Rocks from Brooker Engineering. We're very pleased to be here tonight. We've put a ton of work into the site plans and we're very pleased that they're now seeing the light of day. So we prepared the site plan set and it's a very thorough set of drawings. Dennis Rocks showed the site plan of the property to the board and to the public. There's 32 drawings and they were prepared to qualify us for a site plan application. So they are very detailed, they have: layout, grading, drainage, erosion control, road profiles and planting. The site is located on the east side of Route 306 and the south side of Route 202, at the southeast corner of that intersection and the total property area is 119.5 acres. There is a larger parcel and it's called the mother parcel, which is 97 acres and that was formerly Camp Fun. There are 11 lots that are at the front of Route 306. And there's 10 existing dwellings located on those 11 Lots to get a little feel for the site and its existing conditions.

Merry Breden-McLoryd

Address: 59 Camp Hill Road Pomona NY 10970

My family has lived at this location for over 60 years. In that time, as the areas around us were developed we have had flooding on our property and in our home increased. We fear further encroachment on the wetlands will only worsen the conditions, creating a hazard and the potential loss of use of our property and or home. I believe that there are some protected species in those areas as well. But primarily, our house floods, our yard floods and we lose the use of that and it creates a hazard to us and in our daily lives.

Susan Shapiro (Attorney present for the above resident)

Address: 75 North Middletown Road Nanuet NY 10954

Hi, I am Susan Shapiro, attorney, here on behalf of Merry, who just spoke, to really focus on some of the legal questions that are before you today. The speaker handed the board a packet from Beulah Breden 59 Camp Hill Road in Pomona, dated July 23, 2024. Since the information was not given to the board or the applicant ahead of time to review, the clerk took the packet so copies could be made for the applicant and the board after the meeting, this way they could all have a chance to review it and make comments for the next scheduled meeting. The packet submitted to the clerk was a total of 4 pages. I appreciate that you're finding this to be a type one action. I'm very concerned about this is what our attorneys recommended about segmenting this review. I understand you want to first look at the issue of the unaccredited educational facility that they're proposing. And I

understand that, but if you start segmenting the review, you're going to end up with problems because you're going to end up with saying you can go ahead and say yes, it's okay, that they have this. Then going to the village is going to be held to this higher standard if you've already given this approval, so you can't give a denial later for anything else. So it really needs to be a full review all at once rather than a segmented review. I'm very concerned that that is a wrong step that you're taking. This not good for this community, for flooding reasons and for hazardous community reasons for traffic, you're going to be tied to this and you're not going to be able to get out of this decision. I want to bring up just a technical issue, this is a public hearing. This is a for the public to see. It was absolutely impossible for us to see any of the plans online it was illegible, there's technology today that we should be able to see them and blow them up. It was impossible to read anything, I couldn't read the bulk tables, couldn't read anything. The village board did not entertain the zone change. So they've now come to you in a way that it seems like they're trying to go around what the village has already said, they don't want to change the zoning for this property. And now they're coming to the ZBA basically asking you to do something because it's really pretty dramatic to the level of the variances that they're asking for. Now going to the issue of accreditation. A religious school may not have their accreditation. We do not want more segregated schools in the town. Town of Ramapo has probably the most segregated schools in the state of New York. And we do not need to continue that segregation with the board approving unaccredited schools. And I think that, you know, yes, RLUIPA is a lot, but so is fair housing and fair schools and desegregation as well. So you have to balance those things and make sure that we do not keep approving segregated schools.

Bill Baker made a motion to incorporate by reference all of the prior court proceedings between the applicant and the Village of Pomona. The motion was seconded by Kevin Dock. Upon vote, the motion was carried by all present, passes 4-0.

That's not what the zoning law of New York State says to grant a use variance there are standards that have to still be applied. That isn't new and that doesn't trump New York State law the concept of our RLUIPA was that a village or town or municipality can't come in and make new laws to prevent religious uses. That's not what you're doing. You have existing long-term zoning laws on the books. It doesn't mean that you have to go ahead and change your zoning laws to allow religious use. You couldn't say you have a religious use within the envelope of what's allowed by our land use. There are no requirements that you have to give them more than what is allowed by your zoning code. It's long established, you're not changing it to prevent them from doing anything. You're just changing it to make it so that they can have more segregated schools. You're just not changing it in that regard.

But the concern here is that this is not a unique this is really very hard for them to show you a unique hardship on this property. It's a large parcel and there's major roadways, there's public water and sewers. The only uniqueness may be that there's a high pressure pipeline that goes through it. That's because this area is acknowledged for many years as being very highly environmentally constrained and that there shouldn't be any housing on it. Nobody would have a problem with a single family residence appropriate to the amount of usable land on site, I don't even know if flooding issues would be alleviated with that kind of use.

They're talking about making a large portion of the site impervious they're talking about putting up basically a half acre building. That's an enormous building. That's their main building, and that's a small structure on the site, and they're calling everything else accessory. The small structure on the site is the auditorium and then everything else is accessory, it looks like everything else. The main use and that's accessory. So you know, I understand why they're wording it the way they are and why they want you to see it that way. But you have to look at what actually the footprint is especially on such an environmental constrained area. So thank you, and once again, I just want to make sure that the public is not put at greater hazard than it already is. And the land use is properly done so people don't have to move out of their homes because they're unlivable because they become totally flooded.

Nat Maniscalco

75 Camp Hill Road Pomona NY 10970

I have been living here for over 47 years. The flooding of my house has gotten worse and worse over the years, especially in the back of my house. Resident was trying to show the board pictures of flooding near his house that he has on his cell phone, but none of the pictures were sent in ahead of time for the board, professionals or the applicant to review. The board asked the resident to please submit the photos to the clerk, so they can be reviewed before the next meeting. The flooding is so bad anytime it rains. The water comes out of the woods and onto my property. One storm I had the water come out of the woods and it was three feet high and went into my neighbor's house, next door. It was like being in a Louisiana Bayou. That was over 10 years ago and now in 2024 the flooding is getting worse and worse. And this is happening every time we have a bad storm. It's not just like one time and if we lose power, water in the basement and the sump pumps don't work. I'm sure there's a lot more people here that the same thing happens to them. So have consideration for the people that have been here for all these years.

Kevin Dock made a motion to continue the public hearing for all three public hearings for the Congregation Rabbinical Institute of Tartikov, Inc. for September 25, 2024 at 7:30 pm. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Jesse Kaufman made a motion to adjourn the meeting at 11:01 pm. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Minutes respectfully submitted by Jenna Antoine, Village Clerk