

**VILLAGE OF POMONA  
ZONING BOARD OF APPEALS MEETING  
NOVEMBER 20, 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**

**Jenna Antoine, Village Clerk**

**ABSENT:**

**Martin Spence, Village Engineer**

**Louis Zummo, Village Building Inspector**

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**Jesse Kaufman called the meeting to order at 7:35 pm.**

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**Jesse Kaufman made a motion to approve the Meeting Minutes from September 25, 2024. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.**

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**Moses Goldberger – 68 Call Hollow Road Pomona NY 10970**

**Tax Roll# 24.16-1-2**

**Jesse Kaufman:**

**We closed the Public Hearing for the above property at the last meeting.**

**The Board went through the five factors of the balancing test with the Village Attorney. The Board and Village attorney also reviewed all the GML comments received for the above property.**

**David MacCartney:**

**We would need an override to approve the above project since the Rockland County Planning Department denied the project.**

**Kevin Dock made a motion for the Village Attorney to prepare a resolution for the next meeting on December 18, 2024 at 7:30pm. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.**

**Jesse Kaufman:**

**(At 7:58pm) We are going to take a two minute administrative break.**

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**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.**

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

**Jesse Kaufman:**

**We are now back on the record at 8:00pm.**

**Joseph Churgin:**

I'm Joseph Churgin. I'm the applicant's attorney here. I just want to go through a brief history first, and you can ask whatever questions you have. On April 26th of 2024 we submitted a use variance application, a special permit and site plan application. The use variances we want two things. One, the fact that the Rabbinical Institute is not accredited, and two that there is no adult student housing in the Village of Pomona code. On June 26th 2024 we were placed on the agenda and asked to introduce the application. On July 24th of 2024 we had our first public hearing. On September 25<sup>th</sup> 2024 we had our second public hearing and we were asked at that time to provide information regarding our client's ability or inability to be accredited. On October 23<sup>rd</sup> 2024 we provided a seven page letter with a lot of attachments that included the trial testimony, where the villages accrediting expert agreed essentially that Tartikov could not be accredited because it is not in existence. We also provided the letter in response to your request by which the accreditation was denied. So you all should have that, I just want to make sure of that. The October 23<sup>rd</sup> 2024 letter and the attachments are part of the zoning board's records. I think this puts to rest the question of whether we can be or cannot be accredited. We cannot be accredited and honestly that's the reason why that specific use variance application was submitted. We are seeking a use variance for an unaccredited educational use. Even the Rockland County Department of Planning, which almost always issues denials or does not agree with applications agreed essentially. I'll read from their letter from them on August 15th 2024, this department is generally not in favor of granting use variances because of the land use precedent that can be set and the relatively high threshold of demonstrating that the applicable zoning regulations have caused an unnecessary hardship. However, to determine the determining factor regarding the permissibility of proposed development is the lack of accreditation from the New York State Education Department or similar recognized accrediting agency on the part of the applicant. In all other respects, the proposed development appears to meet the definition of an educational institution, which is a use allowed by special permit. It is this department's opinion that the lack of accreditation in and of itself does not result in any significant land use impacts. It essentially says they don't have an objection to our requested use variance. That's Rockland County Planning Department. You don't very often see letters from the Rockland County Planning Department saying that at this point. I think that the issue with respect to accreditation is resolved. And at the last meeting there were no other open questions that were raised and therefore I really think that the ZBA should close the hearing and should vote. Thank you.

Alan I. Lamer:

Other than the accreditation, were there any other reasons you can't get accreditation or is it just the rule of 2 years of being in operation?

Joseph Churgin:

We cannot be accredited. There was a plethora of different reasons that were stated, both by your expert and others, but the simple fact is that we are not in operation and therefore we can't be accredited so you can add more x, y and z to it. It doesn't matter. It would still come out as a no. And all of these reasons are set forth in the materials that we provided to you.

Jesse Kaufman:

Has your client done anything to prepare for operation, such as, do they have a curriculum?

Joseph Churgin:

It is not relevant to this application and we do not have it with us today, but I'm sure it is floating around somewhere, yes.

Jesse Kaufman:

Do you have faculty?

Joseph Churgin:

No, we are not operational.

Jesse Kaufman:

I'm looking at the letter you submitted. I'm trying to see what about your accreditation. It says over here, the first and foremost reason, the fact that you cannot admit students into your school without a test or other examination is not consistent with our general criteria. It doesn't even get to get to anything about you being in operation.

David MacCartney:

Hold on a second, there has got to be a record here. There is a recording. Mr. Churgin you keep jumping over the Chairman. It can get a little heated, but it doesn't need to. Let's do one at a time for the sake of the record. So, the Chairman is going to speak and let him get his full questions out and then they'll do the same for you.

Joseph Churgin:

Sure.

Again, if we cannot be accredited for one reason I shouldn't have to go through why for five reasons, we can't be accredited.

Jesse Kaufman:

Did you look into AARTS since 2008 and see if you can be accredited?

Joseph Churgin:

Yes, we have and we still can't be accredited because we are not in existence. We confirmed that with them. So in our letter to you dated, October 23rd on page six, we talked about what the argument that was made in the court, Pomona argued in the earlier proceeding that Tartikov could make some changes that put it on the road to accreditation, which is essentially what you're asking. But the court found that Pomona argument suffers from the fatal flaw, which is exactly what I've been saying all along. Tartikov must be operational before it can be accredited, but Tartikov cannot become operational until it obtains a special use permit, which requires accreditation. So we're going in a circle with basically what the court was saying and that's what we're doing. If you're asking me questions about what we have as if we are operational and we can't have those students until we're operational. And my use variance application is for an unaccredited school, I'm asking you to assume I don't have the accreditation, take that out. Take that requirement out of your law. That's what the variance application is for, it's for nothing else.

Kevin Dock:

Have you ever gone back and asked for an exception or some kind of conditional consideration?

Joseph Churgin:

It's not available, we are not operational. They can't come and see us in operation, therefore they cannot accredit us. And they have no exceptions.

Bill Baker:

Do you not have admission standards or exams?

Joseph Churgin:

Again, it's the same question; we can't be accredited because we don't exist.

Bill Baker:

But if you existed would that not still be an issue?

Joseph Churgin:

No, because you couldn't get the accreditation anyway.

Jesse Kaufman:

And you never looked into a temporary facility since 2008, like a temporary place to rent until your building was ready?

Joseph Churgin:

So are you asking me if my client, a religious institution, is required to go outside the Village of Pomona outside of the 100 plus acre property it owns and rent and whatever expensive cost a facility would be, so that it can operate for a year or two and then get accredited and then come to you for approval. No, we have not done it.

Kevin Dock:

Is it still a requirement for you to be in existence for you to be accredited?

Joseph Churgin:

We are not in existence, we cannot be accredited by AARTS, whether it's in 2024 or 2008.

David MacCartney:

I think you said earlier that you checked with AARTS again. Did you make a formal inquiry?

Joseph Churgin:

We had made an inquiry. I am confident that the answer is the operational requirement is still in effect.

David MacCartney:

What about the other requirements?

Joseph Churgin:

What other requirements? I can't get accredited because I'm not in operation.

Kevin Dock:

When was your last inquiry to AARTS?

Joseph Churgin:

In the last few months.

David MacCartney:

Did you get anything in writing back from them? Did you get any communications or emails or anything like that?

Joseph Churgin:

I don't believe it was in writing. I am telling you we cannot get accredited because we are not in operation.

David MacCartney:

Just so the record is clear, you don't have any writings or you don't want to give us the writings? What you're saying is the Board should take your word for it, that's what you're saying. I just want to be clear. I just don't understand.

Joseph Churgin:

The Board can probably go to AARTS and ask them what their accrediting standards are the same way I did. It is certain, 100% certain that you cannot be accredited by AARTS if you are not in existence, 100% certain.

David MacCartney:



Do they have a written handbook or written requirements there?

Joseph Churgin:

I believe there are written requirements that you could see and it would clearly say you have to be in operation. I don't remember if it's one or two years, but you have to be in operation. Yes, they have requirements.

David MacCartney:

Do you know what the other requirements are?

Joseph Churgin:

No, we can't be accredited.

David MacCartney:

Are the same requirements in place now that was in place in 2008?

Joseph Churgin:

I believe that almost all the requirements for 2008 are still in place today. However, I am 100% certain that the requirement that you have to be in operation was in place in 2008 and it is still in place today.

David MacCartney:

You say almost all. Are there any requirements that you know of that aren't existing?

Joseph Churgin:

There are no requirements that I specifically know of that existed in 2008 that don't exist today. The one thing I am 100% certain of is that you cannot be accredited if you are not in existence.

David MacCartney:

Is there any change in what you are proposing now versus what you were proposing when you made the inquiry back in 2008 that gave rise to this January 2008 letter? Is everything the same in your operation then as it is now?

Joseph Churgin:

Everything is exactly the same right now as it was in 2008 when they made their initial inquiry. I wasn't part of that in 2008, but everything in our operation is exactly the same.

David MacCartney:

Have you given any consideration to making any changes to comply with the other reasons for the denial or the advice that you couldn't be accredited other than the operational work?

Joseph Churgin:

No, because you can't get accredited no matter what we do because we are not in operation.

Jesse Kaufman:

So I know you said there is not a written out curriculum, but based on the letter here there is a core mission statement of what Tartikov's scope of study will be and that is Halakhah.

Joseph Churgin:

Yes and that was put forth in very great detail in the federal lawsuit, which covered years.

Jesse Kaufman:

So has the applicant broadened their core mission statement or are they still going to focus only on that?

Joseph Churgin:

It is. I'm going to say it in terms that I understand it. It is a program by which people study to become judges under Halakhah, it is a very rigorous, long program. It dwarfs what we do here in this country for like secular lawyers, like me and no, it has not changed.

Alan I. Lamer:

Are there any existing Tartikov judges right now?

Jesse Kaufman:

Are there any Tartikov courts?

Joseph Churgin:

Now you're mixing apples and oranges. This is going to be a training program, basically a school so that people can become judges. You're asking me if a religious court exists and yeah religious courts exist. Is there a religious Tartikov court, there very well may be, but that's apples and oranges of what we are trying to do here.

Jesse Kaufman:

I just want to go back to that because I jumped ahead a little bit. I just want to read into the record that the last line over here from the January 9<sup>th</sup> 2008 letter it says while the program of Halakhah is of unquestionable value, it does not fit the scope of our accreditation activities. So let's just assume for a second that you guys had a physical plan, a faculty, a curriculum of student services, record keeping and were in existence for two years. Could you still be accredited based on your common core Talmudic studies?

Joseph Churgin:

I really reject your question. You can't assume that we're in existence for two years when we are not in existence for two years. I can't tell you what AARTS would say if we were in existence because we are creating something that doesn't exist.

Jesse Kaufman:

Generally lawyers deal with hypotheticals all day long.

Joseph Churgin:

No, we deal with facts. We don't deal with hypotheticals. I'm not in law school.

Jesse Kaufman:

If you had everything and the plans and the curriculum, do you think AARTS would approve you?

Joseph Churgin:

I don't know if AARTS would approve me or not. That's not a relevant question. They won't approve me now because we are not in existence, that is a fact, I know that.

Alan I. Lamer:

Where do we stand on the SEQRA review?

David MacCartney:

We don't have the part two of the EAF prepared yet, by the planner, which is where we stand. I think moving forward the bigger question is does anyone from the public like to speak or be heard or have more questions from the applicant? Without the part two of the EAF, we cannot deal with SEQRA tonight.

Jesse Kaufman:

Is there anyone back there in the public that would like to speak?

Joseph Churgin:

No, those are all my people.

David MacCartney:

Has the applicant submitted everything they would like to submit for the Board to consider or are there more things you'd like to submit to the Board based upon the questioning or anything else?

Joseph Churgin:

We've submitted everything that we intend to submit. So I think the Public Hearing should be closed.

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

The applicant will be returning at the next meeting, on December 18, 2024 at 7:30pm.

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**Jesse Kaufman adjourned the meeting at 8:28 pm. We will be back on December 18, 2024 at 7:30 pm.**

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**Minutes respectfully submitted by Jenna Antoine, Village Clerk**

