

**VILLAGE OF POMONA
ZONING BOARD OF APPEALS MEETING
SEPTEMBER 25, 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

Martin Spence, Village Engineer

Jenna Antoine, Village Clerk

ABSENT:

Louis Zummo, Village Building Inspector

Jesse Kaufman called the meeting to order at 7:42 pm.

Bill Baker made a motion to approve the Meeting Minutes from July 24, 2024. The motion was seconded by Alan I. Lamer. Upon vote, the motion was carried by all present, passes 4-0.

Moses Goldberger – 68 Call Hollow Road Pomona NY 10970

Tax Roll# 24.16-1-2

Jesse Kaufman invited the attorney up to speak for the continued Public Hearing for the above applicant.

Paul S. Baum:

I am the attorney for the applicant. This is a proposal. We're requesting variances so that we can construct a small, two bedroom house on this lot, as I advised the board at the last meeting, variances were previously granted to build a home on this lot in 2008 and the building permit was issued. The construction was never done. The approval expired, so we're here to basically reinstate those variances, but not technically because what we gave you is a plan that doesn't show the same footprint as the variances that were created in 2008 show the house being built on the same footprint of the house that previously existed there and was raised at some point in 2008, so we're looking to build a small house on the same footprint that existed on the lot, and we still need variances. The variances that we're asking for actually less than the variances that were granted by the zoning board in 2008, so we would ask that the board grant us the variances for the house we want to build. But in the alternative, should the board not want to do that, we would accept granting the same variances and we build the same house that was approved in 2008 and I think I showed you these plans, and I'll go through them. So this is the current plan. The driveway is much longer and we are proposing to construct the entire driveway with pervious pavers, which will reduce the lot coverage from 24% to 13.4% and eliminate the need for a lot coverage variance.

David MacCartney:

When you refer to each of the plans, can you just update us with the last revised date.

Paul S. Baum:

The current plan we are proposing was last revised on 8/21/24. The Duffy Plan was last revised on 6/14/04. The Quattrochi plan was last revised on 12/5/06. He shows the Board each of the plans again. We are asking if the Board does not want to approve the last proposed plan we revised on 8/21/24, if they can reinstate the variances that were approved in 2008, the Quattrochi plan. So we feel that this is not going to have any impacts. It's we're replacing what was there. I know the neighbors are very concerned about potential impacts from the site, but it's going to be reviewed. It has been reviewed by Mr. Spence. It's going to be reviewed by the building inspector, Mr. Zummo, again, at the time we file for a building permit, they'll make sure everything is safe and proper in accordance with code. So we would ask that you grant us, the variances that we're here for to build that the first house, not the duplicate. We are requesting the Board override the Rockland County Planning Department GML disapproval as well as their request to get input from the Town of Haverstraw.

Mr. Baum went over the applicants last submitted narrative summary dated August 23, 2024, the report is below that he read into the record.

SUPPLEMENTAL NARRATIVE SUMMARY 68 CALL HOLLOW ROAD

This supplemental narrative summary is submitted in support of the application of Moses Goldberger for variances in order to permit the re-construction of a single-family home at the premises located at 68 Call Hollow Road. At the public hearing on this matter held on July 24, 2024 members of the public and the Board expressed concern over a number of issues. This narrative will address those issues. 1. Abandoned septic systems. To our knowledge, based on the review of the Building Department files and records, there are no abandoned septic systems on this property. However, during the course of installation and excavation for the new house, any abandoned septic systems or tanks will be removed and eliminated to the satisfaction of the Building Inspector and Village Engineer. 2. Abandoned fuel oil tanks. Again, to our knowledge, based on the review of the Building Department files and records, there are no abandoned fuel oil tanks located on the property and there is no fuel oil contamination. However, during the course of installation and excavation for the new house, any abandoned fuel oil tanks will be removed and any fuel oil contamination will be remediated to the satisfaction of the Building Inspector and Village Engineer. 3. Construction of retaining walls. We have not constructed any retaining walls on the property. The prior owner obtained a building permit and it is assumed that any work done by the prior owner was done in accordance with the permit. There is no record of any violations in the Building Department file for any unauthorized construction. 4. Sewer. The plans provide for connection to municipal sewers. Approvals will be obtained from the Joint Regional Sewer Board ("JRSB") to extend the sewer main and connect to the main. Unless approval is obtained from the JRSW, then no single-family home can be

constructed on the lot. There is a cost involved in obtaining approval from the JRSB. We do not want to expend money towards the approval before knowing that the variances will be granted. This can be a condition of approval. 5. Stormwater. Footing drains and roof leaders will be conveyed to a drywell via a swale and retained to prevent surface water runoff off site. We are also proposing to construct the entire driveway with pervious pavers which will reduce the lot coverage from 24% to 13.4% and eliminate the need for a lot coverage variance. 6. Steep slopes. We are not proposing to disturb the existing slopes and a note has been added to the plans so indicating. 7. Illegal construction. We have spoken with the Building Department and there are no records of any illegal construction on this property. A building permit was issued on March 13, 2008 for the construction of single-family dwelling. The house was never constructed and the building permit expired. There is no record of any work being performed on the property after the expiration of the building permit.

Martin Spence read his engineer report into the record, dated September 25, 2024, the report is below.

Based on the prior Board meeting, a follow up site inspection was performed on September 17, 2024. The purpose of the site inspection was to review conditions that neighbors were concerned about. The property is 6,787 SF where the current zoning requires 40,000 SF. It is an existing non-conforming lot, approximately 17% of the required lot area. A site inspection shows that there are two tiered retaining walls representative of the grading plan shown. Areas were graded and stabilized. No remnants of septic or voids were visible at the time of the inspection. We offer the following: 1. The owner/applicant in this matter is: Moses Goldberger 13 Chevron Road, #302 Monroe, NY 10952 2. The application consists of requesting various variances as related to the existing undersized lot as well as construction that does not meet the required bulk requirements. A letter from the Building Inspector provides a detail summary of the requested variances. The size of the lot is undersized with a 6,787 SF where 40,000 SF is required. The existing lot area is approximately 17% of the required lot area. The property is located in the R-40 Zone District. 3. The property is approximately 150' deep with street frontage of 47' +/- and rear lot line of 41' +/- . The property slopes up from the road with a gradual grade and elevation difference of 22'. Call Hollow Road is a County Road. The Village Board recently (within last 24 months) increased the development coverage to 20% from 15%. 4. Historically and based on the narrative, a prior house was removed and has not existed for over 20 years. In approximately 2008 variances were received and a Building Permit was issued for a single family dwelling, but it was never constructed and all permits and variances have since expired. 5. The current application proposes to construct a 2 bedroom dwelling with a garage under with 3 levels including the garage. The single width driveway accesses a single garage bay. There are retaining walls that meet grade at the street and have a maximum height of 7' at the garage location due to the upward slope of the property and a

noted on the plan that the driveway grade must be 3% as “mandated by County Highway Department”. 6. The property has sat vacant for over 20 years and new stormwater regulations have been approved and in force within the Village. The development must meet all current requirements for stormwater. Engineering Comments: S-1. Test pits shall be performed prior to ordering drywell to determine constructability. Shallow chambers may be an option. S-2. Wall is in close proximity to the adjacent masonry garage and frame garage. Wall is shown to have a rigid footing below grade. It is anticipated that near the roadway the wall heights may be low height and require minimal footing widths. The driveway should be reviewed to shift further North, slightly to provide greater distance to property line. S-3. Any approvals shall include a landscaping and stabilization plan including foundation plants, trees and site landscaping. S-4. Show road opening detail and pavement restoration in anticipation of sewer work. S-5. Existing drive is in poor condition and notes “apron to remain” or “existing drive to be utilized” may refer to grades, where new pavement would be anticipated. Apron shall be reconstructed to allow water flow to existing swale to the North. Apron should be slightly relocated to the North. S-6. The applicant shall show how the sanitary sewer from the house is to be connected to available sewer main. A sanitary sewer connection/permit is necessary for any development of the project and is required prior to any issuance of local building permits. The applicant agrees with this statement. No building permit shall be issued until a sewer main extension permit is issued and constructed. S-7. Remove text on plan “footing drain and roof leader to swale”.

The applicant is recommended to shift the driveway apron to create more separation from the property line. The board is advised to include a landscaping and stabilization plan in the approval. The applicant must extend the sanitary sewer main and obtain approval before construction.

Jesse Kaufman:

Now we will move into possible final comments from the public, please limit comments to things not brought up last time.

Public Comment

Donald Branson

Address: 168 Camp Hill Road Pomona NY 10970

The above resident submitted 14 photos to the clerk with a description of each

Was a soil test ever done?

Martin Spence:

Yes, we are recommending that one is done.

Donald Branson:

Expressed concerns about potential water damage and drainage issues if the zoning is changed. Highlighted that the property in question is on their land, and they have already spent money to prevent water damage. Pointed out that the current zoning allows for a half-acre lot, and changing it could lead to more development and damage. He mentioned the photos he submitted to the clerk and showed the Board supports his above claims, including a wall that was built without the proper permits.

David MacCartney:

The Board has to approve the plan of the applicant, if it is the same as the previous variance granted. The Board does not have to approve the plan if it has changed at all or if the land has changed at all, if there are any material differences the Board does not have to approve the plan.

Jeff Solomon

Address: 74 Call Hollow Road Pomona NY 10970

Submitted a 3 page letter to the Board, Clerk and Applicant

He highlighted the property's non-compliance with village codes and the need for a sewer extension and pumping station. He questioned the relevance of the prior variance and building permit, stating that the current plan is significantly different. He pointed out that the previous owner violated village codes by excavating and establishing high stone walls, which are not allowed under the current zoning. He expressed concerns about the proposed plan's impact on stormwater management, sewage disposal, and the health of a significant maple tree on his property. He mentioned that the applicant has failed to pay village, town, and county taxes since 2022, and they believe the applicant's statement about paying all taxes was false.

Martin Spence:

I haven't seen a pumping station and right now they do not have a design for a sanitary sewer. Maybe Mr. Baum can speak to that, why you are not going to the sewer first.

Paul S. Baum:

From the applicant standpoint, the expense and the engineering plans to submit for approvals would be a significant amount of money, around \$5,000 or \$10,000 for the engineering designs, only to find out the Boards not granting the variance. If the Board grants the variance, the applicant can go ahead with the sewer design and work with the Joint Regional Sewage Board. We are willing to accept that the approval for sewers be a condition of any approvals, transfer of variances and that no building permits can be issued until we have the approvals from the sewage board.

Kevin Dock:

Martin is their room for a house, pumping station and a driveway?

Martin Spence:

Yes, a pumping station is very small.

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 passes 4-0.

David MacCartney:

Keep in mind all 4 Board Members will have to vote yes to override the Rockland County Planning Departments disapproval.

The board debated the legal implications of a prior variance granted in 2008 and the potential environmental and community impacts. They decided to adjourn the hearing to November 20th, to allow the Board to have a future attorney client session and the Board and applicant will come back on November 20th meeting. The Board will have a decision made by then, for the applicant.

8:42 pm Jesse Kaufman made a motion to adjourn the meeting for five minutes.

8:51 pm Jesse Kaufman called the meeting back to order.

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:

The next applicant is up now, Congregation Rabbinical Institute of Tartikov, Inc.

David MacCartney:

As we discussed last time, and I think with the applicants agreement that there's three separate applications that we all know about, it's the application for use variance, an appeal from the building inspectors, denial of the special use permit and denial of the site application. They're all directly related. They're all seeking essentially the same relief, so we conducted the hearings simultaneously last time. And so that continues now. I assume, with the applicants continue to consent, that we'll just continue to conduct all three hearings concurrently.

Joseph Churgin:

Yeah, I do agree with that. I would like before I start to just take issue with what you just said, we have two use variances that we've applied for, the public notice that went out only relates to one of those two use variances, one use variance because the your code requires a private educational use, to be accredited. That's the one that was publicly noticed. And I think you intend to proceed with the other use variance that we need that has to do with the fact that the village does not have a definition in its code of adult student housing. And that's the one that was not publicly noticed, the board chose not to proceed with that. And I kind of take issue with that. I did write a letter to Mr. MacCartney on August 7, 2024 where I expressed that, I think under the village code section 130-28 part D, once I'm in front of you for a variance from a denial of building inspector or basically anything else you are entitled to review all requests for variances. So and I know that it's important the original determination was the building inspector denial is only with respect to the accredited use variance and not with respect to the adult student housing, but we're here, and, you know, we can proceed. We want to be proceeding on all those I don't want to have to come back.

David MacCartney:

We cannot do that because you would need to apply and get a determination from the Building Inspector first.

Upon consultation with the Village Planner, because this is a segmented review of only the accreditation issue, there are no other involved agencies. The notices of intent have therefore not been circulated. I have prepared resolutions for each of the three applications, which state that upon further consideration the ZBA is the only involved agency in this segmented review, rescinding the portion of the July resolution which required circulation of a notice of intent to involved agencies, and instead just going ahead and assuming lead agency status over this segmented review.

Alan I. Lamer made a motion to approve all 3 resolutions on September 25, 2024 assuming lead agency status on the segmented review for the appeal of the special permit denial, the

appeal of the site plan denial and the application for a use variance. The motion was seconded by Bill Baker. Upon vote, the motion passes 4-0.

Jesse Kaufman made a motion to have the Village Planner prepare the EAF Part 2. The motion was seconded by Alan I. Lamer. Upon vote, the motion passes 4-0.

Joseph Churgin:

My name is Joseph Churgin and I am the attorney from Savad Churgin. I have some other attorneys that have come along with us, along with the engineer and our planner. If you have questions that I can answer them. We're seeking use variances to construct the Rabbinical College on a site which will accommodate 255 adult students of the Orthodox Jewish faith who are engaged in a long-term, 15 year program to become judges for the religious courts. It's a 15 year program in which the adult students that are involved in the study need to live close to the area where they're studying. We're proposing a school building with the synagogue facility and 25 residential units to accommodate the students and their families. Mr. Rocks, our engineer, can walk you through the project after I'm done, if that's what you want. We did it once before the it's here in front of you, but any questions you have after I speak, we'll certainly answer there's two village code provisions to prevent our proposed use. We're requesting new series from both of those codes. The one we're discussing tonight is Section 130-4, which requires all private or religious educational institutions be accredited. This school cannot be accredited by any recognized accrediting body, and that's probably the only thing that the village and my client agree upon. It was a finding in the federal court and it was not overturned. Therefore we're here tonight seeking a use variance from that provision. The second use variance, which I mentioned before, I'm not going to go into detail there, but I'm just going to mention it again, is that there's no definition for adult student housing anywhere in the village, and we couldn't construct this project with adult student housing, and therefore I was asking for a use variance, and I still am asking for a use variance for that. So in the court case, I'm sure all of you have heard of the court case, cases that have gone on between the village and my client, Judge Harris, the Federal Court, held that the accreditation law follows the construction of the Rabbinical College because Tartikov proposed cannot be accredited by any accrediting body. That holding was not overturned by the Second Circuit. It is essentially law. And the way you get accredited, at least back then, was you go to New York State and get accredited by the state, where there were accrediting bodies that you can go privately to get accredited from.

New York State has actually now stopped the board of regents from accrediting for religious institutions. You have to go through this thing called AARTS. We inquired with them and they have specific requirements that you need to be in existence for 2 years

before they will give accreditation and we are not in existence yet. We made inquiries with them and they have several requirements for accreditation and one of the requirements is that you have to be in existence for two years first, before they will go through the process of applying with us.

Donna Sobel:

We cannot be operational without being accredited and we cannot be accredited without being operational.

Jesse Kaufman:

Are there other accrediting agencies in New York State?

Donna Sobel:

No, not for this type of application.

Jesse Kaufman:

Before the trial, you went to AARTS and had some sort of inquiry with them about being accredited, yes or no? Wants to know if they met any other requirements of AARTS.

The applicants attorneys, our attorney and the Board had discussion about whether or not the above was done or not.

Alan I. Lamer:

If we request a copy of that in writing, if one existed would you be able to provide it?

Donna Sobel:

It should be in the record, but we can certainly look for it.

The Board requested the applicant to supply documentation to and from the accrediting agency AARTS*

Public Comment

Maire Liberace

Address: 57 Tamarack Lane Pomona NY 10970

I have been listening to the discussions about accreditation and having had many years of experience in terms of courses offered and accreditation, the one question I would like to ask is how are these courses approved and who approves them? How are they determined to be educationally viable and where do they go? Who would know this information and where does it get shared? Because in all public colleges and seminaries where other religious are educated, the courses are approved by the state to be offered to the students. So I would ask who approves this course?

Nat Maniscalco

Address: 75 Camp Hill Road Pomona NY 10970

I was here for the last meeting. My property is facing the property in question and in the area behind my house is 100 acres of flood plain. When we have heavy rains, my property and my neighbor's property and all the land in the back and it floods out. I have photos here to show all of this. We have two Brooks that rise up and the water spreads out to the whole plane. So if they want to build housing for people, and we have housing behind them that possibly could even get worse flooding, and my house could get flooded, please take this all in consideration.

David MacCartney:

Let the record reflect the above resident, Nat Maniscalco is handing the Board 22 colored photos and the Board will look at them. After reviewing them we will give them to the clerk. He asked the resident to make sure he is okay submitting them formally and the resident said yes, that is fine.

Kevin Dock made a motion to keep the Public Hearing open for all three public hearings for the Congregation Rabbinical Institute of Tartikov, Inc. The Public Hearing will be continued on November 20, 2024 at 7:30 pm. The motion was seconded by Alan I. Lamer. Upon vote, the motion was carried by all present, passes 4-0.

Jesse Kaufman adjourned the meeting at 9:45 pm. We will be back on November 20, 2024 at 7:30 pm.

Minutes respectfully submitted by Jenna Antoine, Village Clerk