

VILLAGE OF NEW HEMPSTEAD
108 OLD SCHOOLHOUSE RD.
NEW CITY, N.Y. 10956

ZONING BOARD OF APPEALS

REGULAR MEETING
WEDNESDAY, MAY 22, 2019
7:30 P.M. – VILLAGE HALL

PRESENT

RICK ELL
ARYEH TAUB
LEONARD GREENBERG *ad hoc*

ABSENT

ADAM POLLACK, CHAIRMAN
SOLOMON FUERST, DEPUTY CHAIRMAN
MARTIN LEIBOWITZ

ALSO PRESENT

BRUCE MINSKY, VILLAGE ATTORNEY
ALLISON WEINRAUB, DEPUTY CLERK-TREASURER

Open Meeting

Roll Call

PUBLIC HEARING ON THE APPLICATION OF AARON MULLER 21 WITS END, NEW HEMPSTEAD, NY 10977. TO PERMIT THE CONSTRUCTION, MAINTENANCE AND USE OF AN ADDITION TO THEIR SINGLE FAMILY DWELLING. THE APPLICANT IS REQUESTING VARIANCES FROM SECTION 5.2 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD. #1 SIDE YARD MINIMUM- PROPOSING 17.1 FT INSTEAD OF THE MINIMUM REQUIRED 25 FT; THE SUBJECT PROPERTY IS LOCATED ON THE NORTH SIDE OF WITS END. 400 FEET FROM THE INTERSECTION OF SPRING ROCK PL. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 42.17 BLOCK 2 LOT 70 IN A 1R-40 ZONING DISTRICT.

Aaron Muller, 21 Wits End

Our professionals informed us that building a new 2 car garage structure will go into the side yard and require a variance which is why we are here today. We would like to use the current garage as living space and we want to comply with the zoning which requires a one car garage, the reason for two cars is that we both have cars, we both commute, and in the winter we need our cars to be accessible.

The public hearing notice appeared in the Rockland Journal News on May 10, 2019. The affidavits of notice and postings were timely.

Correspondence read into the record

Rockland County Sewer District dated May 13, 2019

Mr. Ell offered the following motion, which was seconded by Mr. Greenberg:

Resolution # ZBA 2019-1

Resolved, that the Zoning Board of Appeals hereby opens the public hearing of Aaron Muller, 21 Wits End, New Hempstead. Mr. Elle called for a vote. The vote was 3-0. The resolution was adopted.

No comment from the public.

Mr. Ell offered the following motion, which was seconded by Mr. Greenberg:

Resolution # ZBA 2019-2

Resolved, that the Zoning Board of Appeals hereby closed the public hearing of Aaron Muller, 21 Wits End, New Hempstead. Mr. Elle called for a vote. The vote was 3-0. The resolution was adopted.

Mr. Ell offered the following motion, which was seconded by Mr. Greenberg:

RESOLUTION # ZBA 2019-3

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In the Matter of Application # ZBA 2019- AARON MULLER of 21 WITS END, New Hempstead, New York 10977 for a variation from the provisions of Section 5.2 of the Zoning Local Law of the Village of New Hempstead (Table of Dimensional Requirements) to permit the construction, maintenance and use of an addition to the existing single-family dwelling located at 21 Wits End, New Hempstead, New York:

#1 SIDE YARD MINIMUM- PROPOSING 17.1 FT INSTEAD OF THE MINIMUM REQUIRED 25 FT;

The premises affected are situate at 21 Wits End, New Hempstead, New York 10977 in a 1R-40 Zoning District and further identified on the Town of Ramapo Tax Map as 42.17-2-70. The premises affected are situated on the northern SIDE OF WITS END 400 FT NORTH OF THE INTERSECTION OF SPRING ROCK PL, New Hempstead, New York.

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WHEREAS, the Applicant, **AARON MULLER of 21 Wits, New Hempstead, New York 10977** for a variation from the requirements of Section 5.2 (*Table of Dimensional Requirement*) of the Zoning Local Law of the Village of New Hempstead to permit the construction, maintenance and use of an addition to the single-family dwelling located at **21 Wits End, New Hempstead, New York**:

(i) #1 SIDE YARD MINIMUM- PROPOSING 17.1 FT INSTEAD OF THE MINIMUM REQUIRED 25 FT;

and the Board of Appeals having held public hearing(s) on the **22th day of May, 2019**.

NOW, upon said hearing and the evidence presented, it is hereby found and determined.

FINDINGS OF FACT

FIRST: The applicant, **AARON MULLER of 21 Wits End, New Hempstead, New York 10977** is one of the owners of the subject property.

SECOND: The applicants' property is located at **21 Wits End, New Hempstead, New York** and further identified on the Town of Ramapo Tax Map as **42.17-2-70** and is located within a **1R-40** zoning district.

THIRD: The applicant wishes to obtain a building permit to permit the construction, maintenance and use of an addition to the single-family dwelling located at **21 Wits End, New Hempstead, New York 10977**.

FOURTH: To permit the construction, maintenance and use of the addition to the single-family dwelling would result in the property:

(i) SIDE YARD MINIMUM- PROPOSING 17.1 FT INSTEAD OF THE MINIMUM REQUIRED 25 FT

a variation from the requirements of Section 5.2 (Table of Dimensional Requirements) of the Zoning Ordinance of the Village of New Hempstead is required.

FIFTH: The applicant has stated that the granting of the variance will allow for construction, maintenance and use of an addition to the single-family dwelling, which he wanted to build for a long time and the character of the neighborhood will not be changed. At the public hearing, the Zoning Board of Appeals gave access to a public hearing and heard from no members of the public since no one opposed the requested variance, and with the Board considering all input from the public.

SIXTH: The Village of New Hempstead's Building Inspector Ian Smith denied the original building permit application on **April 16, 2019** and instructed the applicant to apply to the Zoning Board of Appeals for further proceedings. The applicant submitted necessary documentation to bring the application to the Village of New Hempstead's Zoning Board of Appeals.

SEVENTH: In evaluating the need for the variance requested this Board considered the factors outlined in Section 9.3.4.2 of Code of the Village of New Hempstead.

EIGHTH: With such consideration the Board decided that an undesirable change will not be produced in the character of the neighborhood or the granting of this variance will not create a detriment to nearby properties. The owner will continue to utilize the premises as a single-family residence.

NINTH: With such consideration the Board decided that the benefit sought by the applicant cannot be achieved by some other means, other than the requested variance. Additional land is not available for purchase, though the applicant has pursued the same, and the configuration of the subject property and the location of the dwelling on the property are such that the requested variances are the only practical means of relief.

TENTH: With such consideration the Board decided that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood. There were no adverse reports from Town or Village agencies pertaining to environmental issues.

ELEVENTH: With such consideration the Board decided that the interest of justice would be served by granting of the requested variance to the applicant.

CONCLUSIONS OF LAW

FIRST: The Board of Appeals of the Village of New Hempstead pursuant to the provisions of the Code of the Village of New Hempstead shall hear and determine appeals from any order, requirement, decision or determination of the Building Inspector.

SECOND: The Board of Appeals pursuant to Section 9.3.4 of the Code of the Village of New Hempstead may grant a variation from the application of any provision of this ordinance.

THIRD: The Board of Appeals of the Village of New Hempstead does hereby grant the applicant, **Aaron Muller** a variance of items **(i)**, detailed herein/above from the requirements of Section 5.2 (Table of Dimensional Requirement) of the Zoning Local Law of the Village of New Hempstead to permit the construction, maintenance and use of an addition to the existing single-family dwelling pursuant to the survey/plans submitted. The premises affected are situate at **21 Wits End, New Hempstead, New York** and further identified on the Town of Ramapo Tax Map as **42.17-2-70** and is located within a **1R-40** zoning district. The premises shall continue as a single-family dwelling.

FOURTH: The Building Inspector is hereby authorized to issue a building permit to the applicant for the above-described premises subject to compliance with all local laws and ordinances of the Village of New Hempstead.

Mr. Elle called for a roll call vote and the vote was as follows:

The Resolution for the variances (i), as detailed above/herein, was adopted by a vote of 3 in favor [Mr. Elle, Mr. Taub, and Mr. Greenberg]

PUBLIC HEARING ON THE APPLICATION OF SHULEM KORN, 17 GLORIA DR, NEW HEMPSTEAD, NY 10977. TO PERMIT THE CONSTRUCTION, MAINTENANCE AND USE OF AN EXISTING 20' BY 10' (200 SQ. FT.) ACCESSORY STRUCTURE/SHED. THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 4.4.15.5 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD FOR THE STRUCTURE TO REMAIN ON THE PROPERTY LINE. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF GLORIA DR. 50 FEET FROM THE INTERSECTION OF FISHER CT. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 50.09 BLOCK 2 LOT 35 IN A 2R-15 ZONING DISTRICT.

Joseph Churgin, attorney from Savad Churgin representing Shulem Korn, 17 Gloria dr. Applicants seeking a variance from section 4.4.15.5 of the zoning law of the village of New Hempstead for the structure to remain on the property line. There is a line of bushes that straddle the property line and the accessory structure is on one side of the bushes and the neighboring property is on the other.

Rick Ell, ZBA Member
Are the footings structurally sound?

Churgin
Nothing in the ground but it's on a wooden deck.

Ell
Is this a problem with the building department?

Churgin
The code inspector issued a violation about 6 months ago. The only issue he made us aware of was the placement. Never did he say we need a permit.

Bruce Minsky, Village attorney
It was mentioned in the code inspector's initial letter dated July 19, 2019

Churgin
All we are here for today is the variance in regards to the placement.

Aryeh Taub, Zoning Board Member

In one of these photos I see an extension cord. Is there power in the structure? Where is the power coming from?

Churgin

It's safe to say the power is coming from the extension cord.

Shulem Korn, 17 Gloria Dr.

While I was setting things up I had a fan in there but it has since been removed.

Churgin

There is nowhere else on the property he can place the structure.

There is a letter from the building inspector dated 3.19.2019 requesting the structure be taken down because of safety issues and was not built to code.

Churgin

What are the safety issues?

Bruce Minsky, Village Attorney

It's a structure that looks like something is going on such as a business inside and it was not constructed to code making it a hazard. The village has never approved anything on the property line.

Shulem Korn, 17 Gloria- Applicant

The reason for the tent is there are these 2 dangerous dogs who live next to me. Several times they jumped over to the fence and walked onto my property. I was told by the owner if my kids are playing by the fence and the dog bites them we are responsible. The reason I built the tent was not only for space but also because of this dog.

Taub, Board Member

What does the dog have to do with the shed?

Korn

The shed blocks the dogs like a fence from my children so they are not afraid to play outside and I need the extra storage.

Taub

What is stored inside?

Korn

Flags and safety inventory.

Attorney Minsky,

Why not build a fence?

Korn

I was going to but it was going to be expensive and I don't want to do that. This only cost me \$200.

Mr. Elle

Is there a permit/CO for the second shed on the property?

Mrs. Weinraub stated the Village only allows one shed on a property and there was no permit or CO in the file. The public hearing notice appeared in the Rockland Journal News on May 10, 2019. The affidavits of notice and postings were timely.

Mr. Taub offered the following motion, which was seconded by Mr. Elle:

Resolution # ZBA 2019-4

Resolved, that the Zoning Board of Appeals hereby opens the public hearing of Shulem Korn, 17 Gloria Drive, New Hempstead. Mr. Elle called for a vote. The vote was 3-0. The resolution was adopted.

Dorothy Braithwaite, 15 Gloria Drive
Adjoining neighbor on the left side. It's a safety and fire hazard, it's an eye sore, and I am against the application.

Douglas Dickerson, 6 Gloria Drive
Resident since 1980. Against the application.

Dornzella Milligan, 4 Gloria Drive
Against the application and would like the board to consider the precedent approving this would set.

Dr. Charles- Pierre, 11 Gloria Drive
I grew up here and I have never had an issue with the dog. Against the application

Vandal Lee, 2 Gloria Drive
What is the need for 2 sheds? He did not need to build it. I wanted a shed and I was denied. How is this ok?

Mr. Ell offered the following motion, which was seconded by Mr. Greenberg:

Resolution # ZBA 2019-5

Resolved, that the Zoning Board of Appeals hereby closed the public hearing of Shulem Korn, 17 Gloria Dr., New Hempstead. Mr. Elle called for a vote. The vote was 3-0. The resolution was adopted.

Correspondence read into the record
Rockland County Sewer District dated May 13, 2019
Building Inspector dated March 19, 2019
Village Engineer dated March 1, 2019
Code Inspector dated July 19, 2018

Mr. Ell offered the following motion, which was seconded by Mr. Greenberg:

Resolution # ZBA 2019-6

Resolved, that the Zoning Board of Appeals hereby denies the variance request from section 4.4.15.5 of the zoning law of the village of New Hempstead for the structure to remain on the property line. Mr. Elle called for a vote. The vote was 3-0. The resolution was adopted

Mr. Greenberg offered the following motion, which was seconded by Mr. Ell:

Resolution #ZBA 2019-7

Resolved, that the meeting held by the Zoning Board of Appeals on May 30, 2018 is hereby adjourned. Deputy Chairman Fuerst called for a vote. The vote was 5-0. The resolution was adopted.

Respectfully submitted,
Allison Weinraub, Deputy Village Clerk- Treasurer