

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

ZONING BOARD OF APPEALS

REGULAR MEETING
WEDNESDAY, JULY 22, 2015
7:30 P.M. – VILLAGE HALL

PRESENT

MARTIN LEIBOWITZ, CHAIRMAN
ALLEN FISHKIN
ADAM POLLACK

ABSENT

RICK ELL

ALSO PRESENT

CHRISTIE ADONA – VILLAGE ATTORNEY
CAROLE VAZQUEZ, VILLAGE CLERK-TREASURER

OPEN MEETING

ROLL CALL

**APPLICATION ZBA 2015-1 BORUCH LICHTER
2 ASHLAWN CT.
WESLEY HILLS, N.Y. 10977**

THE APPLICANT IS REQUESTING VARIANCES FROM THE PROVISIONS OF THE VILLAGE OF NEW HEMPSTEAD ZONING ORDINANCE SECTION 5.2 TO PERMIT THE CONSTRUCTION, MAINTENANCE AND USE OF A SINGLE FAMILY DWELLING - 1. TO PERMIT A MINIMUM LOT AREA OF 24,866 EXISTING, INSTEAD OF THE MINIMUM LOT AREA REQUIRED OF 25,000 SQUARE FEET; 2. TO PERMIT A SIDE YARD OF 14.4 FEET, WHICH IS LESS THAN THE REQUIRED MINIMUM SIDE YARD OF 20 FEET. 3. TO PERMIT 545 SQUARE FEET MORE THAN THE PERMITTED MAXIMUM BUILDING COVERAGE ALLOWED OF 3000 SQUARE FEET.

THE SUBJECT PROPERTY IS SITUATED ON THE SOUTH EAST CORNER OF PLEASANT RIDGE ROAD AND WOODWIND LANE; KNOWN AS 36 PLEASANT RIDGE ROAD, NEW HEMPSTEAD, N.Y. 10977 AND DESIGNATED ON THE TOWN OF RAMAPO TAX MAPS AS SECTION 41.20, BLOCK 2, LOT 21 IN A 1R-25 ZONING DISTRICT.

Last meeting we closed the public hearing on this application and had a discussion amongst the members of the Board. We requested our attorney to draw up a resolution regarding this.

Chairman Leibowitz asked the attorney to present the resolution.

Attorney Adona read the following resolution into the record:

Zoning Board of Appeals Resolution # 2015-10

WHEREAS, the Applicant has appealed to this Board for a variance from a determination dated April 20, 2015 made by the Building Inspector, and

WHEREAS, said determination dated April 20, 2015 denied the applicant's request to demolish an existing residence and construct a new residence as the proposed development violates Section 5.2 of the Village of New Hempstead Zoning Code ("Zoning Code"), and

WHEREAS, in connection with the Applicant's proposal to demolish an existing residence and construct a new residence, the Applicant seeks the following area variances from Section 5.2 of the Zoning Code:

1. Lot Area Variance of 134 square feet allowing 24,866 square feet where a minimum of 25,000 square feet is required,
2. Side Yard Variance of 5.6 feet allowing 14.4 feet where a minimum of 20 feet is required, and
3. Building Coverage Variance of 545 square feet allowing 3,545 square feet where a maximum of 3,000 is permitted.

WHEREAS, a duly noticed public hearing was held on this application at the regular meeting of the Zoning Board of Appeals ("ZBA") on June 24, 2015,

WHEREAS, the Applicant testified that he is constrained in his ability to design and construct his home due to the following:

1. The lot is a corner lot that is required to comply with two front yard building setbacks (35 feet) as opposed to one front yard setback and one side yard setback, and
2. The lot is bisected by a gas line easement that restricts the portion of the property where the Applicant can construct a residence;

WHEREAS, the Applicant submitted to the ZBA plans prepared by Mayerfeld Architecture, PLLC updated 6/4/15 depicting the first floor ("A-2 Plan") and second floor ("A-3 Plan") of the proposed residence (the A-2 and A-3 Plans are collectively referred to herein as the "Mayerfeld 6/4/15 Plans"),

WHEREAS, the Applicant also submitted a survey of the property with the original and proposed dwelling depicted prepared by Anthony R. Celentano, P.L.S. dated November 5, 2014 ("Celentano Survey"),

WHEREAS, the need for a side yard variance is limited only to a 16 foot long span where the proposed dining room will be located;

WHEREAS, the new residence will comply with both front yard setbacks, while the existing structure depicted on the Celentano Survey appears to slightly encroach upon both front yard setbacks;

WHEREAS, the Applicant testified that the property will only be used as a single-family residence,

WHEREAS, the Applicant submitted a letter dated June 24, 2015 and signed by the owners of the properties located at 6 Woodward Lane and 34 Pleasant Ridge Road in support of the application and requested that the variances be granted;

WHEREAS, 34 Pleasant Ridge Road is adjacent to the Applicant's property and abuts the Applicant's property on the side where the side yard variance is requested,

WHEREAS, after due notice this Board held a public hearing on such application on June 24, 2015 and all parties having had an opportunity to be heard (no members from the public spoke at the public hearing); and the public hearing having been closed; and members of this Board having made personal inspection of the premises and being familiar therewith; and

WHEREAS, after duly considering all the proofs and evidence before it, this Board determines as follows:

RESOLVED, this is a Type II action under the State Environmental Quality Review Act and therefore no further action is required;

AND IT IS FURTHER RESOLVED, based upon the facts set forth above, the findings of this Board are as follows:

1. There will be no undesirable change produced in the character of the neighborhood or detriment to nearby properties as a result of the variance. The Applicant will comply with both front yard setbacks, while it appears the currently existing structure does not, so the residence will be less visible from both Woodwind Lane and Pleasant Ridge Road; and the property owner who abuts the Applicant's property on the side yard where the variance is sought has expressed approval of the Application.
2. Due to the constraints to the property caused by the fact that it is a corner lot subject to two front yard setbacks and the gas line easement that bisects the property the benefit to the Applicant cannot be achieved by any other feasible means.
3. The requested variances, when taken together, are arguable substantial, but the lot area variance is very minor and the side yard variance is limited to only a 16 foot portion of the residence where the living room will be.
4. The proposed variances will not have an adverse effect or impact on the physical environmental conditions in the neighborhood as the Applicant is proposing to construct the residence a considerable distance from the existing gas easement.
5. The hardship is not self-created to the extent that the property is constrained by the two front yard setbacks and the gas easement that bisects the property and to the extent the building coverage variance is self-created, such self-created hardship does not preclude the granting of this Application.

AND IT IS FURTHER RESOLVED based upon the foregoing findings, the application is granted

Subject to the following conditions:

1. The variances are granted solely in connection with the proposed single-family development depicted in the Mayerfeld 6/4/15 Plans and the Celentano Survey and the variances are granted only to the extent that they are necessary to complete the construction of the single-family residence depicted on the Mayerfeld 6/4/15 Plans and the Celentano Survey (all of which are attached to this resolution and incorporated by reference). As such, the side yard variance is only for the 16 foot long portion of the proposed structure where the dining room will be located and the building coverage variance only covers the exact construction depicted on the Mayerfeld 6/4/15 Plans and the Celentano Survey. If any changes are made to the Mayerfeld 6/4/15 Plans or the Celentano Survey, this variance grant becomes void and the Applicant must make a new application to the ZBA for approval of any and all variances. With the exception of the 16 foot long portion of the proposed structure where the dining room will be located, this variance grants no authority to Applicant to extend any other portion of the existing or proposed structure less than the required side yard setback.
2. The variances are granted subject to the property being used solely as a single-family residence. If the Applicant uses the property, or seeks approval to use the property for any other purpose, regardless of whether that use is permitted in the 1R-25 zoning district and regardless of whether the use is in addition to or instead of a single-family residential use, this variance grant becomes void and the Applicant must make a new application to the ZBA for approval of any and all variances.
3. Any work done hereunder shall be in strict compliance with the plans as filed with this application (the Mayerfeld 6/4/15 Plans and the Celentano Survey), except as may be expressly modified by the conditions herein or as approved by the Building Inspector.
4. The granting of this application shall not be deemed to relieve the applicant of the need to obtain approval of any other board or agency or officer prescribed by law or ordinance with regard to the plans or construction or any other phase of the project.
5. That the applicant shall procure a building permit from the Building Department within one (1) year and all work shall be completed within one (1) year from the date of the building

permit, otherwise this application is denied; and any request for extending the time within which to obtain said building permit shall be filed no less than sixty (60) days prior to the expiration of the one (1) year period.

6. The failure to observe and perform these conditions shall render this resolution invalid.

Dated July 22, 2015

Chairman

Chairman Leibowitz offered the following motion, which was seconded by Mr. Fishkin:

Resolution # ZBA 2015-10

Resolved, that the foregoing resolution regarding the Application of Borouch Lichter, 2 Ashlawn Ct., Wesley Hills, N.Y. 10977, as presented by Attorney Adona, is hereby approved.

Chairman Leibowitz called for a roll call vote and the vote was as follows:

Mr. Pollack, aye, Mr. Fishkin, aye, Chairman Leibowitz, aye. The resolution was adopted by a vote of 3-0

G.M.L. Summit Park Acquisition Group

Chairman Leibowitz stated, after going over the plans, he felt that the Village of New Hempstead should not make any comments regarding this as he felt it was a Town and County item and would have no impact on the Village of New Hempstead.

G.M.L. 158 Eckerson Rd. – Does not impact the Village of New Hempstead. – No comment

Approval of Minutes of June 24, 2015-

Chairman Leibowitz offered the following motion, which was seconded by Mr. Pollack:

Resolution # ZBA 2015-11

Resolved, that the Minutes of the meeting of the Zoning Board of Appeals of the Village of New Hempstead, held on June 24, 2015 are hereby approved as amended.

Chairman Leibowitz called for a vote and the vote was 3-0. The resolution was adopted.

Chairman Leibowitz offered the following motion, which was seconded by Mr. Pollack:

Resolution # ZBA 2015-12

Resolved, that the meeting of the Zoning Board of Appeals of the Village of New Hempstead, held on July 22, 2015, is hereby adjourned.

Chairman Leibowitz called for a vote and the vote was 3-0. The resolution was adopted.

Respectfully submitted – Carole Vazquez, Village Clerk-Treasurer LPM