

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

ZONING BOARD OF APPEALS

REGULAR MEETING
WEDNESDAY, November 17, 2021
7:30 P.M. – ZOOM & IN PERSON

PRESENT

SOLOMON FUERST, CHAIR OF THE ZONING BOARD
MEIR ROTHMAN
ELLIOT ZISMAN
MOSHE ZAMIR

ABSENT

ARYEH TAUB

ALSO PRESENT

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

Open Meeting

Roll Call

APPROVAL OF MINUTES- OCTOBER 27, 2021 & AUGUST 25, 2021

There were not enough members for August 25th, 2021 minutes to be approved.

Mr. Zamir offered the following motion, which was seconded by Mr. Rothman:

Resolution # ZBA 2021-34

Resolved, that the Zoning Board of Appeals hereby approves the minutes of the ZBA meeting held on October 27, 2021 and the reading of said minutes is waived. Chairman Fuerst called for a vote. The vote was 4-0.

PUBLIC HEARING ON CVS PHARMACY. THE APPLICANTS ARE SEEKING VARIANCE TO PERMIT THE CONSTRUCTION, MAINTENANCE, AND USE OF TWO (2) DIRECTIONAL SIGNS & A PREAPPROVED GROUND SIGN FOR THE VILLAGE AT THE CORNER OF RT. 306 AND GRANDVIEW AVE. THE SUBJECT PROPERTY IS LOCATED ON RT-306 0 FEET FROM THE INTERSECTION OF GRANDVIEW AVE. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 41.15-4-1&2 IN A NCD ZONING DISTRICT.

The applicant has requested to be adjourned to the next meeting.

Mr. Zamir offered the following motion, which was seconded by Mr. Rothman:

Resolution # ZBA 2021-35

Resolved, that the Zoning Board of Appeals hereby Adjourn the application for CVS Pharmacy located at Rt-306 and Grandview to December 22, 2201. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

PUBLIC HEARING- DANIEL LAZARUS, 6 ANCHOR DR. THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 290-37 OF THE VILLAGE ZONING CODE FOR EXISTING LOT AREA OF 25,000 S.F. FROM THE ALLOWABLE OF 35,000 S.F., AND MINIMUM FRONT YARD OF 40' FROM THE ALLOWABLE 50' IN THE 1R-35 ZONING DISTRICT. LOCATED ON THE EAST SIDE OF ANCHOR RD. 175 +/- FEET FROM BARNACLE DR. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 42.14 BLOCK 2 LOT 7 IN A 1R-35 ZONING DISTRICT.

Daniel Lazarus, Applicant at 6 Anchor Dr.

Brought a copy of the original subdivision map from 1957 to show all the properties in the subdivision are undersized lots. Currently reside in Monsey at 18 Cooperman Rd. we are here to ask for a variance to be allowed to build a home on a lot which is in a 1R-35 zone. Have decided to move closer to their children. The house that was purchased is a typical split level. The cost to renovate would cost about the same for demolishing and rebuilding a ranch. The architect that was hired said there would be no issue and are within the zoning regulations. He felt that the lot would be grandfathered in. if we were aware it was going to cause variances to be needed we they may not have demolished the whole home. When the applicant went for the Demo permit they were required to submit building plans to show what was being proposed. Only after the demo permit was issued was the applicant made aware that they would need to go for variances for an undersized lot to comply with the zoning regulations. It meets all the other zoning regulations for a 1R-35 except for lot size. All of the other houses in the area are smaller and none of them comply with the R35 zoning. It would be a tremendous financial and quality of life hardship for the applicant if variances are not granted. They purchased a house applied to demolish got the permit and tore down the house.

Chairman Fuerst asked if there will be a basement.

The applicant responded it will be unfinished.

Chairman Fuerst asked the attorney why this applicant has to come in front of the Zoning Board if it is an existing lot.

Village Attorney Bruce Minsky explained because the house is being taken down the variances are needed.

Comments Read into the record:
Rockland County Sewer District 11/15/2021
Town of Ramapo DPW 10/25/2021

Mrs. Weinraub stated it ran in the Rockland Journal News 11/3/2021. Affidavits of notice and postings were timely.

Mr. Zisman offered the following motion, which was seconded by Mr. Rothman:

Resolution #ZBA 2021-36

Resolved, that the public hearing on Daniel Lazarus., 6 Anchor Rd. New Hempstead NY is hereby opened. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

Mr. Feldstein, 250 Summit Pk. Rd.
Is in favor of this application. Feels the Building Inspector should have informed the applicant that he should have left a little something to not need the variance.

Anthony Napoli, 3 Anchor
In favor of this application. It would be an improvement to the neighborhood.

Ezra Lazarus, 1 Anchor
In favor of this application. Looking forward to having their parents as neighbors.

Justin Schwartz, 55 Westview Rd.
In favor of this application. This family is one of the founding families of the Village.

Mr. Zisman offered the following motion, which was seconded by Mr. Rothman:

Resolution #ZBA 2021-37

Resolved, that the public hearing on Daniel Lazarus., 6 Anchor Rd. New Hempstead NY is hereby closed. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

The Board went through the elements of consideration/factors for granting the use variance with acknowledgement from the applicant:

- (1) An undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by the granting of the variance;
- (2) The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
- (3) The applicant's attorney has indicated the requested area variance is not substantial because of the uniqueness of the lot frontages;
- (4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (5) The alleged difficulty was not self-created

Zack Kamm, Village Engineer
Has no objection with grandfathering in the front yard from the original subdivision and this would only need a variance for the Area Variance.

Mr. Zisman offered the following motion, which was seconded by Mr. Zamir:

Resolution #ZBA 2021-38

Resolution # ZBA 2021 – 38

-----X

In the Matter of Application # ZBA 2021-38, Daniel Lazarus of 6 Anchor Drive, New Hempstead, New York 10977 for variations from the provisions of Section 290-37 of the Zoning Local Law of

the Village of New Hempstead (Table of Dimensional Requirements) permit the construction, maintenance and use of single-family dwelling having (1) a lot area coverage of 25,000 square feet rather than the minimum required 35,000 square feet; and (2) having a minimum front yard of forty (40') feet rather than the minimum allowable front yard of fifty (50') feet. The premises affected are situate on the East side of Anchor Road approximately 175 ± feet from Barnacle Drive and is located within a 1R-35 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.14 Block 2 Lot 7.

-----X

WHEREAS, the Applicant Daniel Lazarus of 6 Anchor Drive, New Hempstead, New York 10977 for variations from the requirements of Section 290-37 (Table of Dimensional Requirement) of the Zoning Local Law of the Village of New Hempstead to permit the construction, maintenance and use of a single-family dwelling having (1) a lot area coverage of 25,000 square feet rather than the minimum required 35,000 square feet; and (2) having a minimum front yard of forty (40') feet rather than the minimum allowable front yard of fifty (50') feet and the Board of Appeals having held a public hearing on November 17, 2021;

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

FINDINGS OF FACT

FIRST: The applicant, Applicant Daniel Lazarus of 6 Anchor Drive, New Hempstead, New York 10977 is one of the owners of the subject property.

SECOND: The applicants' property is located on the East side of Anchor Road approximately 175 ± feet from Barnacle Drive and is located within a 1R-35 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.14 Block 2 Lot 7.

THIRD: The applicant wishes to obtain a building permit to permit the construction, maintenance and use of a single-family dwelling having

(1) a lot area coverage of 25,000 square feet rather than the minimum required 35,000 square feet; and (2) having a minimum front yard of forty (40') feet rather than the minimum allowable front yard of fifty (50') feet located on the East side of Anchor Road approximately 175 ± feet from Barnacle Drive in a 1R-35 Zoning District.

FOURTH: To permit the construction, maintenance and use of a single-family dwelling having dwelling having (1) a lot area coverage of 25,000 square feet rather than the minimum required 35,000 square feet; and (2) a minimum front yard of forty (40') feet rather than the minimum allowable front yard of fifty (50') feet variations from the requirements of 290-37 (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 variances will allow for construction, maintenance and use of a single-family dwelling and the character of the neighborhood will not be changed. At the public hearing, the Zoning Board of Appeals heard from the members of the public that addressed the Board and considered all input from the public.

SIXTH: In October 2021, The Village of New Hempstead's Building Inspector denied the applicant's request for a building permit and referred the applicant to apply to the Zoning Board of Appeals for further proceedings. The applicants submitted necessary documentation to bring the application to the Village of New Hempstead's Zoning Board of Appeals.

SEVENTH: In evaluating the need for these variance requests this Board considered the factors outlined in Section 290-37 (B) of Code of the Village of New Hempstead.

EIGHTH: 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.

NINTH: The benefit sought by the applicant cannot be achieved by some other means, other than the requested variances. Additional land is not available for purchase, and the configuration of the subject property and the location of the proposed structure on the property are such that the requested variances are the only practical means of relief.

TENTH: The proposed variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.

ELEVENTH: After careful review of the Applicant's submission, it was determined that the requested variance for a front yard was not needed as the Applicant's property was grandfathered and Applicant's application was deemed amended by agreement to reflect the omission of the front yard variance request.

TWELFTH: The interest of justice would be served by granting of the requested variances 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 or direct referrals from the Planning Board.

SECOND: The Board of Appeals pursuant to Section 290-37 of the Code of the Village of New Hempstead may grant a variation in the strict application of any provision of this ordinance.

THIRD: The Board of Appeals of the Village of New Hempstead does hereby grant the applicant Daniel Lazarus of 6 Anchor Drive, New Hempstead, New York 10977 for a variation from the provisions of Section 290-37 of the Zoning Local Law of the Village of New Hempstead (Table of Dimensional Requirements) permit the construction, maintenance and use of a single-family dwelling having (1) a lot area coverage of 25,000 square feet rather than the minimum required 35,000 square feet at the property located on the East side of Anchor Road approximately 175 ± feet from Barnacle Drive and is located within a 1R-35 Zoning District

and further identified on the Town of Ramapo Tax Map as Section 42.14, Block 2, Lot 40 subject to the applicant's compliance with (a) the Rockland County Sewer District's Letter dated November 15, 2021; and (b) The Town of Ramapo Department of Public Work's Letter dated October 25, 2021. Compliance shall be confirmed by the Village Engineer prior to the issuance of any building permit for this property.

Chairman Fuerst called for a roll call vote and the vote was as follows: Mr. Zisman, AYE, Mr. Rothman, AYE Mr. Zamir, AYE Chairman Fuerst, AYE. The Resolution was adopted by a vote of 4-0.

PUBLIC HEARING-ON FAIRWAY MEWS, 190 POMONA RD. APPLICANT IS REQUESTING VARIANCES FROM SECTION 290-37 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD VARIANCES FOR LOT 1 (I) REQUESTING A LOT AREA OF 19,254 SF. (NET) INSTEAD OF THE MINIMUM PERMITTED 20,000 SF. (II) REQUESTING A FLOOR AREA RATION OF .29 INSTEAD OF THE MAXIMUM PERMITTED .18 (III) REQUESTING AN IMPERVIOUS SURFACE OF .32 INSTEAD OF THE MAXIMUM PERMITTED .30.LOT 2 (I) REQUESTING A LOT AREA OF 17,581SF. (NET) INSTEAD OF THE MINIMUM REQUIRED 20,000 SF. (II) REQUESTING A REAR YARD SETBACK OF 24 FT. INSTEAD OF THE MINIMUM REQUIRED 35 FT. (III) REQUESTING A FLOOR AREA RATIO OF .31 INSTEAD OF THE MAXIMUM PERMITTED .18 (IIII) REQUESTING IMPERVIOUS SURFACE OF .36 INSTEAD OF THE MAXIMUM PERMITTED .30, LOT 3 (I) REQUESTING A LOT AREA OF 18,953 SF. INSTEAD OF THE MINIMUM REQUIRED 20,000 SQ. FT. (II) REQUESTING FLOOR AREA RATIO OF .29 INSTEAD OF THE MAXIMUM PERMITTED .18 SF (III) REQUESTING IMPERVIOUS SURFACE OF .33 INSTEAD OF THE MAXIMUM PERMITTED .30 TO PERMIT THE CONSTRUCTION, MAINTENANCE AND USE OF 3 TWO-FAMILY SIDE BY SIDE UNITS.. THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF STATION RD. 0 FEET FROM POMONA RD. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 33.18 BLOCK 1 LOT 6 IN A 2R-15 ZONING DISTRICT.

John Atzel, from Atzel Nasher and Zeigler, Representing the Applicant

This lot is the long skinny lot along Station road toward the stadium and Verizon property. The current property consists of 59,900 Sq. Ft. We are requesting three lots with the minimum required 20,000 Sq. Ft. due to road widening and easements the applicant is requesting the net lot area for each lot. The most notable variance requesting is FAR and Maximum lot overage/impervious surface. Each until will have a total sq. footage of 2720 Sq. Ft. there will be a total of 6 units, two per lot. The applicant does not feel these variances are excessive. The maximum impervious surface coverage we are going to mitigate with zero increase in run off. We did provide the village engineer with a drainage report. We received a referral from the Planning Board. We did receive comments from the GML and are comfortable with accepting all of them except asking for an override from the Rockland County Planning letter dated November 4, 2021 comments number 1, 2 & 9. Would like to pull the board to make sure we have the appropriate number of members needed for the override. We do not believe this would be a detriment to the neighborhood rather an improvement. It's a good transition area from the stadium and Verizon into more of the Village where the Golf Course will eventually be developed in the Town of Ramapo.

Mrs. Weinraub stated it ran in the Rockland Journal News 11/3/2021. Affidavits of notice and postings were timely.

Mr. Zisman offered the following motion, which was seconded by Mr. Zamir:

Resolution #ZBA 2021-39

Resolved, that the public hearing on Fairway Mews, 190 Pomona Rd. New Hempstead NY is hereby opened. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

Simcha Feldstein, 250 Summit Pk. Rd. right on the corner of Summit Pk. Rd. and Pomona Rd. Is in favor of this application if done the right way believes it would be an enhancement to the neighborhood.

Justin Schwartz, 55 Westview Rd, Cambridge Heights Neighbors and American Legion. Does not understand why the Hillcrest fire Department letter is being glanced over. The American legion never received notice and did not see any signage. Is that improper notice.

Mrs. Weinraub stated she received the receipts from the applicant and the American Legion is number 3 on the list submitted.

The applicant stated they provided photos of the posters posted and the neighbor from 250 Summit Pk. Rd. and he did see it.

Justin Schwartz

Items on SQRA, the consideration on a lot that was just rezoned should be addressed. The standing variance are not met. There is no hardship that can be claimed. Objecting to the applicants request for approval without my 4 page comments being addressed. Is it an underground garage and if it isn't how can they be allowed to do it if it's stated as an underground garage. The American legion has a lot of activates. How will they prevent new people moving in from complaining about noise? Is the applicant going to be a buyer beware? Am I entitled to a written response?

Chairman Fuerst explained some of these comments were reviewed at the discussion, there will be no written response to a letter/Comment not from the GML circulation, and this board is only involved in the variance everything else will be on the Planning Board. We are here strictly for a variance.

Justin Schwartz

Looking for understanding on if this application is in front of the zoning board before it goes in front of planning?

The Board explained this is a referral from the Planning Board.

Justin Schwartz,

Would like the dates from the Planning Board. How could it be on for Public Hearing if the Zoning Law was only recently passed?

The Village Attorney explained the Local Law that was adopted was not for this parcel. The Comprehensive Plan that was adopted was completed by resolution in April of 2021. The Local

Law that was to adopt the new zoning designations and reflect what was adopted in the comprehensive plan that did not exist in the village not ones that already existed in the village.

Glenn McCreedy, Village Engineer

Was the SEQR completed at the June Planning Board and if not they would have to go back to Planning for SEQR and then come back to Zoning for the referral and then go back to Planning after that.

It was determined SEQR was not completed and they would need to go back to Planning.

The applicant has to go back to Planning at the next meeting on December 14, 2021 and then back to Zoning on December 22, 2021

The applicant asked if the Board can do an uncoordinated review.

The board determined they cannot because Planning is the Lead Agency.

Attorney Minsky Referred to the Village Planner letter stating that this zone was created for this and they did mitigate the FAR variance that would have been needed.

The Board does not feel this will be an issue if the Planning Board passes a Neg Dec in regards to SEQR.

The Public Hearing is going to be kept open.

Mr. Zisman offered the following motion, which was seconded by Mr. Zamir:

Resolution #ZBA 2021-40

Resolved, that the public hearing on Fairway Mews, 190 Pomona Rd. New Hempstead NY is hereby adjourned to December 22, 2021. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

MOTION TO ADJOURN

Mr. Zisman offered the following motion, which was seconded by Mr. Zamir:

Resolution #ZBA 2021-41

Resolved, that the meeting held by the Zoning Board of Appeals on November 17, 2021 Is hereby adjourned. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

Respectfully submitted,

Allison Weinraub, Village Clerk- Treasurer