

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

ZONING BOARD OF APPEALS

REGULAR MEETING
WEDNESDAY, December 22, 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
ZACK KAMM, VILLAGE ENGINEER

Open Meeting

Roll Call

APPROVAL OF MINUTES- AUGUST 25, 2021 & NOVEMBER 17, 2021

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

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

Resolution # ZBA 2021-42

Resolved, that the Zoning Board of Appeals hereby approves the minutes of the ZBA meeting held on November 17, 2021 and the reading of said minutes is waived. Chairman Fuerst called for a vote. The vote was 4-0.

ADJOURN TO CONTINUATION OF THE 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.

At the request of the applicant this will be adjourned to January 26, 2022.

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

Resolution # ZBA 2021-43

Resolved, that the Zoning Board of Appeals hereby adjourn the application for CVS Pharmacy located at the corner of Rt-306 and Grandview Ave. to January 26, 2022. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

CONTINUATION OF THE PUBLIC HEARING 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, Atzel Nasher and Zeigler, Representing the Applicant

There was a discussion on this application at the last Public Hearing and the board was unable to act because a Neg Dec for SEQR was not completed by the planning board, but it has been completed at this time. We did respond to the Rockland County Planning letter dated November 4, 2021 and requesting an override on 3 of those comments. We also provided a written response to Mr. Schwartz's letter that we received at the last Zoning Board Public Hearing. We did receive a memo from the Village engineer regarding the Floor Area Ratio that we would like to refer to the Village Attorney and Board. It states in the village code that all buildings and structures shall comply with either Max FAR or Max Building coverage for the respective zoning district whichever is identified by the owner on any application submitted after the effective date of LL 2 of 2007. We do comply with maximum building coverage and we did make an application for the FAR but if the board and attorney agree with the note we will not need that variance and if you feel we do we respectfully request the board grant that variance.

The Village attorney and engineer confirmed that if they have one they do not need to comply with the other.

Chairman Fuerst stated the largest variances requested actually do not need to be considered under the Village code because they comply with the bulk of either or.

Comments read into the record:

Rockland County Health 10/14/2021

Suez Water 10/12/2021

Rockland County Sewer 10/21/2021

Rockland County Highway 10/27/2021

Town of Ramapo DPW 10/25/2021
Hillcrest Fire Department 10/22/2021
Rockland County Planning 11/4/2021
Rockland County Health 11/8/2021
Rockland County Sewer 10/21/21
Applicant Response 11/16/2021
Justin Schwartz with American Legion and Cambridge Heights 11/18/2021
Environmental Services 12/7/2021
NYS Parks Rec and Historic 11/15/2021

The Chair confirmed the only variances that are being requested are the lot area and impervious surface and a rear yard setback on lot two. Making a huge difference with the request.

The applicant stated they would need minimum lot area for all three lots, maximum impervious surface for all three lots and a rear yard setback for lot number 2. We comply Building Coverage so we do not need to comply with the Floor Area Ratio based on the Village code.

The chair commented if you look at the percentages of what they are requesting it's the impervious surface which is .3 allowed instead of .32 requesting .36 and .33 requested and with regards to the minimum lot area they are allowed 20 they are asking for about 19, 17.5, and 18.9.

The applicant explained they will respectfully requesting an override of:
Comment 1- mentions FAR but that variance request would not be required

Comment 2- the Lot area variance is due to the requirement for road widening, the deduction for the easement for the sewer otherwise the lots would be a lot closer to the minimum net lot area and there are only 6 units.

Comment 9- in regards to the impervious surface requesting pervious pavement and block but on this type of residential structure is not suitable for private residences and if it does not get maintained then they are back to having no drainage or any zero increase in runoff.

The applicant requests that those three overrides be granted if the board sees fit.

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

Resolution # ZBA 2021-44

Resolved, That The Zoning Board Of Appeals Hereby Opens The 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 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 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 Impervious Surface of .33 Instead Of the Maximum Permitted .30. Chairman Fuerst called for a vote the vote was 4-0 the resolution was adopted.

Justin Schwartz, 55 Westminster Way

Only just received the response this evening. How is there enough time for it to be reviewed and accepted?

The chair asked the Village attorney what the requirements are as a board in terms of having to wait for a review on comments that are submitted by someone from the public when an applicant responds for whatever reason.

The attorney responded the applicant is not obligated to respond but the applicant can and did respond. It is more important for the board to review the comments but it's not going to be a situation where someone from the public can keep responding to comments or responses that are given. People get to comment, the applicant submitted a response to the village and the board should at least consider the comments and the responses to it in making the determination.

The board was sent the comments when the village received it on December 15.

The board went through the responses sent to Mr. Schwartz.

- (1) Was the hardship self-created, the attorney will go over before the board can make its determination
- (2) The individual variances are substantial and cumulative is even more substantial, but a lot of it is in reference to the FAR which was determined that variance is not required.
- (3) An undesirable change produced in the character of the neighborhood, the attorney will go over before the board can make its determination
- (4) The physical or environmental conditions in the neighborhood, the attorney will go over before the board can make its determination
- (5) There is no other method for applicants to get more enormous homes built on the property as proposed through another method that neighbors can propose, this is more for the Planning board to make that determination.

The zoning board chair stated what the applicant is requesting on the property does that fit in with the village master plan. It seems like the variances the applicant is requesting is to what's under the new code and what the requirements are for those properties. The other questions brought up will be what get answered before a determination can be made weather it's too much of a variance undesirable weather it's physically a problem for the neighborhood.

Mr. Schwartz asked if the SEQR review was coordinated with the planning board.

The chair explained that is why we couldn't do anything at the last meeting because we were waiting for the Planning Board to make their determination.

Mr. Schwartz believes they made the Neg Dec determination missing a document from Mr. Gdanski's office and that was to be signed before this meeting. Was that paperwork signed?

The village engineer and attorney responded that was not a condition. The only thing spoken about was the outstanding DEC potential contamination that will be coming in January and it was written in a letter that it was not an issue and that something more formal will be received in the beginning of the year. All the negative declaration is stating is that all

issues can be mitigated which they can be so this is no issue with the Neg Dec that the planning board issued.

Deborah Munitz, 5 Rosehill Rd.

The joke is that everything is self-created but that is not true. Obviously the purpose of the ZBA to provide a mechanism for alleviating situations and when the term self-created is joked about this is a perfect example of self-created. The board shouldn't joke about this especially after a massive rezoning when the land handled 5 homes and now you are contemplating 6 it is purely for self-creation reasons. If the applicant is trying to minimize the variances, why have they not considered two lots with two families and one lot with a single family that would minimize the extent of the variances? Was or was this not a coordinated review and will this board be relying on the determination of the planning board. There were no traffic studies or visual impact studies. There are other people who contacted me and visual impact was one of the biggest issues not addressed when the village did its rezoning because all of these impact issues will be addressed at the time of the projects. Looking at the old zoning compared to the new zoning no impact study was addressed for the residence. Who is responsible for mitigating these issues with a visual analysis? Would like some clarity on FAR. The applicant does not need to address FAR because they've addressed the Maximum Building Coverage? There is a need for smaller and more affordable homes but the board has a responsibility to minimize the amount of variances

Chairman Fuerst responded changing to two two-families and one single family in his opinion they have to be somewhat uniformed. The renderings they have submitted are somewhat uniformed. If you would make those two two-family and one single-family no one would want to live in that single family home.

Deborah Munitz responded they don't all need to be uniformed and they aren't always uniformed. The issue is what's facing Pomona Rd. which is single family that are far more setback from the road than this would be. The job of this board is to mitigate the impact to everyone living in the area.

The applicant responded the home facing Pomona Rd. is actually 75 Ft. from the road and complies with the zoning. The applicant has worked closely with the planning board to come up with a layout and eliminating the FAR variance these are very minimal requests.

John Lange, Village Planner

Explained the bulk table is very clear where it says either or for FAR or Maximum Building Coverage.

Attorney Minsky responded about the hardship self-created. That particular element is not one that is supposed to be a deterrent. It is an issue to be discussed but it does not determine if a variance should be approved or not. There is not a situation that has come up in front of this board where a person has been living in a home that knew what the zoning was. With these variances being only minimum lot area and impervious surface these are no different than anything this board has been in the last few years.

The only one that would have potentially been an extensive request is FAR which is not needed.

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

Resolution # ZBA 2021-45

Resolved, that the Zoning Board of Appeals Hereby closes The 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 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 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 Impervious Surface of .33 Instead Of the Maximum Permitted .30. Chairman Fuerst called for a vote the vote was 4-0 the resolution was adopted.

The board had no other questions.

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; which may be possible but is not reasonable.
- (3) It has been indicated the requested area variance is not substantial.
- (4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (5) if the alleged difficulty was self-created shall be relevant but not necessarily preclude the granting of the variance.

The board feels that because of the surrounding neighbors (Verizon, the golf course, and the railroad, not residential homes) the rear yard is not a substantial request because the neighbors won't be effected.

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

Resolution # ZBA 2021-46

Resolution # ZBA 2021 – 46

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In the Matter of Application # ZBA 2021-46, Fairway Mews, 190 Pomona Road 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 a two-family dwelling on proposed Lot 1 having (1) a lot area of 19,254 square feet rather than the minimum lot area of 20,000 square feet; and (2) an impervious surface of 0.32 rather than the maximum permitted impervious surface area of 0.30. The premises affected are situate on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.

-----X

WHEREAS, the Applicant Fairway Mews of 190 Pomona Road 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 two-family dwelling on proposed Lot 1 having. (1) a lot area of 19,254 square feet rather than the minimum lot area of 20,000 square feet; and (2) an impervious surface of 0.32 rather than the maximum permitted impervious surface area of 0.30, and the Board of Appeals having held a public hearings on November 17, 2021 and December 22, 2021;

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

FINDINGS OF FACT

FIRST: The applicant, Fairway Mews, 190 Pomona Road New Hempstead, New York 10977 is the owner of the subject property.

SECOND: The applicants' property is located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.

THIRD: The applicant wishes to obtain a building permit to permit the construction, maintenance and use of a two-family dwelling having (1) a lot area of 19,254 square feet rather than the minimum lot area of 20,000 square feet; and (2) an impervious surface of 0.32 rather than the maximum permitted impervious surface area of 0.30 located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District

FOURTH: To permit the construction, maintenance and use of a two-family dwelling having (1) a lot area of 19,254 square feet rather than the minimum lot area of 20,000 square feet; and (2) an impervious surface of 0.32 rather than the maximum permitted impervious surface area of 0.30 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 two-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: On June 8, 2021, The Village of New Hempstead's Planning Board 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: 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 Fairway Mews of 190 Pomona Road New Hempstead, New York 10977 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 a two-family dwelling on proposed Lot 1 having (1) a lot area of 19,254 square feet rather than the minimum lot area of 20,000 square feet; and (2) an impervious surface of 0.32 rather than the maximum permitted impervious surface area of 0.30 at the property located on the East side of Station Road at its intersection with Pomona Road and is located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6, subject to the applicant's agreement to comply with the comments received from Rockland County Health Department's Letter dated October 14, 2021; the Letter from Suez Water dated October 12, 2021; Rockland County Sewer District's Letter dated October 21, 2021; Rockland County Highway Department's Letter dated October 27, 2021; Town of Ramapo Department of Public Work's Letter dated October 25, 2021; Hillcrest Fire Department's Letter dated October 22, 2021, Rockland County Health Departments additional Letter dated November 8, 2021 and all comments contained in the Rockland County Planning Department's Letter dated November 4, 2021, except for comments 1, 2 and 9 of said Letter.

To the extent required, the Zoning Board of Appeals specifically overrides comments number 1, 2 and 9 of the Rockland County Planning Department General Municipal Review Letter dated November 4, 2021.

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

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

Resolution # ZBA 2021-47

Resolution # ZBA 2021 – 47

-----X
In the Matter of Application # ZBA 2021-47, Fairway Mews, 190 Pomona Road 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 a two-family dwelling on proposed Lot 2 having (1) a lot area of 17,581 square feet rather than the minimum lot area of 20,000 square feet; (2) a rear yard setback of 24 feet rather than the minimum required rear-yard set back of 35 feet; and (3) an impervious surface of .36 rather than the maximum permitted impervious surface of .30. The premises affected are situate on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.
-----X

WHEREAS, the Applicant Fairway Mews of 190 Pomona Road 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 two-family dwelling on proposed Lot 2 having (1) a lot area of 17,581 square feet rather than the minimum lot area of 20,000 square feet; (2) a rear yard setback of 24 feet rather than the minimum required rear-yard set back of 35 feet; and (3) an impervious surface of .36 rather than the maximum permitted impervious surface of .30., and the Board of Appeals having held a public hearings on November 17, 2021 and December 22, 2021;

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

FINDINGS OF FACT

FIRST: The applicant, Fairway Mews, 190 Pomona Road New Hempstead, New York 10977 is the owner of the subject property.

SECOND: The applicants' property is located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.

THIRD: The applicant wishes to obtain a building permit to permit the construction, maintenance and use of a two-family dwelling on proposed Lot 2 having (1) a lot area of 17,581 square feet rather than the minimum lot area of 20,000 square feet; (2) a rear yard setback of 24 feet rather than the minimum required rear-yard setback of 35 feet; and (3) an impervious surface of .36 rather than the maximum permitted impervious surface of .30. located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District

FOURTH: To permit the construction, maintenance and use of a two-family dwelling on proposed Lot 2 having (1) a lot area of 17,581 square feet rather than the minimum lot area of 20,000 square feet; (2) a rear yard setback of 24 feet rather than the minimum required rear-yard setback of 35 feet; and (3) an impervious surface of .36 rather than the maximum permitted impervious surface of .30, 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 two-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: On June 8, 2021, The Village of New Hempstead's Planning Board 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: 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 Fairway Mews of 190 Pomona Road New Hempstead, New York 10977 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 a two-family dwelling on proposed Lot 2 having (1) a lot area of 17,581 square feet rather than the minimum lot area of 20,000 square feet; (2) a rear yard setback of 24 feet rather than the minimum required rear-yard set back of 35 feet; and (3) an imperious surface of .36 rather than the maximum permitted impervious surface of .30 at the property located on the East side of Station Road at its intersection with Pomona Road and is located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6, subject to the applicant's agreement to comply with the comments received from Rockland County Health Department's Letter dated October 14, 2021; the Letter from Suez Water dated October 12, 2021; Rockland County Sewer District's Letter dated October 21, 2021; Rockland County Highway Department's Letter dated October 27, 2021; Town of Ramapo Department of Public Work's Letter dated October 25, 2021; Hillcrest Fire Department's Letter dated October 22, 2021, Rockland County Health Departments additional Letter dated November 8, 2021 and all comments contained in the Rockland County Planning Department's Letter dated November 4, 2021, except for comments 1, 2 and 9 of said Letter.

To the extent required, the Zoning Board of Appeals specifically overrides comments number 1, 2 and 9 of the Rockland County Planning Department General Municipal Review Letter dated November 4, 2021.

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

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

Resolution # ZBA 2021-48

Resolution # ZBA 2021 – 48

-----X
In the Matter of Application # ZBA 2021-48, Fairway Mews, 190 Pomona Road 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 a two-family dwelling on proposed Lot 3 having (1) a lot area of 18,953 square feet rather than the minimum lot area of 20,000 square feet; and (2) an imperious surface of .33 rather than the maximum permitted impervious surface of .30. The premises affected are situate on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.
-----X

WHEREAS, the Applicant Fairway Mews of 190 Pomona Road 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 two-family dwelling on proposed Lot 3 having (1) a lot area of 18,953 square feet rather than the minimum lot area of 20,000 square feet; and (2) an imperious surface of .33 rather than the maximum permitted impervious surface of .30, and the Board of Appeals having held a public hearings on November 17, 2021 and December 22, 2021;

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

FINDINGS OF FACT

FIRST: The applicant, Fairway Mews, 190 Pomona Road New Hempstead, New York 10977 is the owner of the subject property.

SECOND: The applicants' property is located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6.

THIRD: The applicant wishes to obtain a building permit to permit the construction, maintenance and use of a two-family dwelling on proposed Lot 3 having (1) a lot area of 18,953 square feet rather than the minimum lot area of 20,000 square feet; and (2) an imperious surface of .33 rather than the maximum permitted impervious surface of .30 located on the East side of Station Road at its intersection with Pomona Road and is currently located within a 2R-15 Zoning District

FOURTH: To permit the construction, maintenance and use of a two-family dwelling on proposed Lot 3 having (1) a lot area of 18,953 square feet rather than the minimum lot area of 20,000 square feet; and (2) an imperious surface of .33 rather than the maximum permitted impervious surface of .30., 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 two-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: On June 8 2021, The Village of New Hempstead's Planning Board 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: 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 Fairway Mews of 190 Pomona Road New Hempstead, New York 10977 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 a two-family dwelling on proposed Lot 3 having (1) a lot area of 18,953 square feet rather than the minimum lot area of 20,000 square feet; and (2) an imperious surface of .33 rather than the maximum permitted impervious surface of .30 at the property located on the East side of Station Road at its intersection with Pomona Road and is located within a 2R-15 Zoning District and further identified on the Town of Ramapo Tax Map as Section 33.18, Block 1, Lot 6, subject to the applicant's agreement to comply with the comments received from Rockland County Health Department's Letter dated October 14, 2021; the Letter from Suez Water dated October 12, 2021; Rockland County Sewer District's Letter dated October 21, 2021; Rockland County Highway Department's Letter dated October 27, 2021; Town of Ramapo Department of Public Work's Letter dated October 25, 2021; Hillcrest Fire Department's Letter dated October 22, 2021, Rockland County Health Departments additional Letter dated November 8, 2021 and all comments contained in the Rockland County Planning Department's Letter dated November 4, 2021, except for comments 1, 2 and 9 of said Letter.

To the extent required, the Zoning Board of Appeals specifically overrides comments number 1, 2 and 9 of the Rockland County Planning Department General Municipal Review Letter dated November 4, 2021.

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

The applicant has agreed to comply with the comments from the Rockland County Health 10/14/2021, Suez Water 10/12/2021, Rockland County Sewer 10/21/2021, Rockland County Highway 10/27/2021, Town of Ramapo DPW 10/25/2021, Hillcrest Fire Department 10/22/2021 Rockland County Health 11/8/2021 and the Rockland County Planning department letter dated 11/4/2021 aside from comments 1, 2, and 9.

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

Resolution # ZBA 2021-49

Resolved, that the Zoning Board of Appeals hereby override:
Comment 1 from the Rockland County Planning Letter dated 11/4/2021, based on the village Zoning Code the FAR Variance is not needed because the applicant complies with the Maximum Building Coverage, Chairman Fuerst called for a vote. The vote was 4-0 the resolution was adopted

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

Resolution # ZBA 2021-50

Resolved, that the Zoning Board of Appeals hereby override Comment 2 from the Rockland County Planning Letter dated 11/4/2021, the project has a total of six units. It will have minimal impact on sewer water drainage and services, Chairman Fuerst called for a vote. The vote was 4-0 the resolution was adopted

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

Resolution # ZBA 2021-51

Resolved, that the Zoning Board of Appeals hereby override Comment 9 from the Rockland County Planning Letter dated 11/4/2021, the materials requested are not suitable for private residences to maintain. Chairman Fuerst called for a vote. The vote was 4-0 the resolution was adopted

ADJOURN TO JANUARY 26, 2022 PUBLIC HEARING- BENYAMIN AMONA OWNER OF BET MIRIAM 613-615 & 619 UNION RD. THE SUBJECT PROPERTIES ARE LOCATED ON THE WEST SIDE OF UNION RD. 650 FEET SOUTH OF MICHAEL ST. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 50.5 BLOCK 1 LOT 18 & 19 IN A 2R-15 ZONING DISTRICT. THE APPLICANT IS REQUESTING VARIANCES FROM SECTION 290-37 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD.

VARIANCES FOR (I) REQUESTING A STREET FRONTAGE OF 0 INSTEAD OF THE MINIMUM PERMITTED 125 FT. ON LOT TWO (II) REQUESTING A STREET FRONTAGE OF 0 INSTEAD OF THE MINIMUM PERMITTED 125 FT. ON LOT FOUR FOR THE CONSTRUCTION MAINTENANCE AND USE OF 4 TWO-FAMILY SIDE BY SIDE DWELLINGS.

At the request of the applicant this will be adjourned to January 26, 2022.

Because this is the first appearance for the Public Hearing the applicant will be required to resend notices and repost the posters.

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

Resolution # ZBA 2021-52

Resolved, that the Zoning Board of Appeals hereby adjourn the application for Benjamin Amona located at 613-615 and 619 Union Rd. to January 26, 2022. Chairman Fuerst called for a vote. The vote was 4-0. The resolution was adopted.

MOTION TO ADJOURN

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

Resolution #ZBA 2021-53

Resolved, that the meeting held by the Zoning Board of Appeals on December 22, 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