

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

ZONING BOARD OF APPEALS

REGULAR MEETING
Wednesday March 1, 2023
7:30pm
VILLAGE HALL

PRESENT

ARYEH TAUB, DEPUTY CHAIR
MOSHE ZAMIR
CHAIM BERGER (ADHOC)
MEIR ROTHMAN

ABSENT

SOLOMON FUERST, CHAIR
ELLIOT ZISMAN

ALSO PRESENT

ALLISON WEINRAUB, VILLAGE CLERK TREASURER
AMANDA BETTELLO, DEPUTY VILLAGE CLERK TREASURER
BRUCE MINSKY, VILLAGE ATTORNEY

Open Meeting

Roll Call

APPROVAL OF MINUTES- AUGUST 25, 2021 AND DECEMBER 21, 2022

There were not enough members present who attended the meetings to approve the August 25, 2021 and December 21, 2022 set of minutes. Those minutes will be held over until the next date.

Adjourn to March 22, 2023 PUBLIC HEARING OF DOVID NITZLICH, 20, 32, & 34 MCNAMARA RD. THE APPLICANT IS REQUESTING VARIANCES FROM SECTION 290-37 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD. VARIANCES FOR (I) REQUESTING A LOT AREA OF 18, 552 S.F INSTEAD OF THE MINIMUM PERMITTED 40,000 S.F. (II) REQUESTING A LOT WIDTH OF 128.72' INSTEAD OF THE MINIMUM REQUIRED 150' (III)REQUESTING A FRONT YARD OF 48.5' INSTEAD OF THE MINIMUM REQUIRED 50' (IV) REQUESTING A REAR YARD OF 39.1 FT. INSTEAD OF THE MINIMUM REQUIRED 50' (V) REQUESTING A FAR OF .16 INSTEAD OF THE MAXIMUM PERMITTED .10 (VI) REQUESTING AN IMPERVIOUS SURFACE RATIO OF .23 INSTEAD OF THE MAXIMUM PERMITTED .20 (VII) REQUESTING A HEIGHT OF 3 STORIES INSTEAD OF THE PERMITTED 2.5 STORIES. (VIII) REQUESTING A REAR YARD FOR THE GARAGE OF 24' INSTEAD OF THE REQUIRED 50' (IX) REQUESTING A SIDE YARD GARAGE OF 3' INSTEAD OF THE REQUIRED 25'. THE SUBJECT PROPERTIES ARE LOCATED ON THE NORTH SIDE OF MCNAMARA RD 300 +/- FEET FROM UNION RD. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 42.13 BLOCK 1 LOT 66, 67, 67.1 IN A 1R-40 ZONING DISTRICT.

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

Resolution # ZBA 2023-1

Resolved, that the Zoning Board of Appeals hereby adjourned the public hearing for 20, 30, 32 McNamara Road to March 22, 2023. Deputy Chairman Taub called for a vote, the vote was 4-0. The resolution was adopted.

PUBLIC HEARING FOR BORUCH GUTMAN 16 BROCKTON ROAD, SPRING VALLEY, NY. THE APPLICANT IS REQUESTING VARIANCES FROM SECTION 290-3 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD. MINIMUM SIDE YARD: 20' IS REQUIRED, AND 16.9' IS PROVIDED. TOTAL MINIMUM SIDE YARD: 50' IS REQUIRED, AND 46' IS PROVIDED. MAXIMUM IMPERVIOUS SURFACE: .25 ALLOWED, AND .27 IS PROVIDED. THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF BROCKTON ROAD. 425+/- FEET SOUTH FROM THE INTERSECTION OF MICHAEL STREET. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 50.05 BLOCK 1 LOT 22 IN A 2R-15 ZONING DISTRICT.

Yomtov Dirnfeld, Contractor for the applicant.

The applicant is looking to do an extension on the dining room. It will be on the southeast side of the house, rear right side. It is basically a five by ten foot extension. The variance they are seeking is preexisting nonconforming side setbacks that is going out with the same line just extending it. They are looking to add to the back of the house which will bring this over 25% of coverage so they would like to go up to 27%.

Ms. Bettello stated it ran in the Rockland Journal News on February 15, 2023 affidavits of notice and postings were timely.

Correspondence Referenced into the Record:

Rockland County Sewer 2.24.23

Rockland County Highway 2.2.23

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

Resolution # ZBA 2023-2

Resolved, that the Zoning Board of the Village of New Hempstead here by open the Public Hearing for Boruch Gutman of 16 Brockton Road, Spring Valley, New York 10977. Deputy Chairman Taub called for a vote. The vote was 4-0. The resolution was adopted.

Let the record show there was no one from the public present who wished to comment.

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

Resolution # ZBA 2023-3

Resolved, that the Zoning Board of the Village of New Hempstead here by Close the Public Hearing for Boruch Gutman of 16 Brockton Road, Spring Valley, New York 10977. Deputy Chairman Taub 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

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

Resolution # ZBA 2023-4

-----X
 In the Matter of Application # ZBA 2023-1 , Boruch Gutman of 16 Brockton Road, Spring Valley, 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 minimum side yard of sixteen feet-nine inches (16'9") rather than the minimum required side yard of twenty (20') feet; (2) a total side yard of forty-six feet (46'0") rather than the minimum total side yard of fifty (50') feet; and (3) having an impervious surface of .27 rather than the maximum impervious surface of .25.

The premises affected are situate on the East side of Brockton Road approximately 425± feet from the intersection of Michael Street and is located within a 2R-25 Zoning District and further identified on the Town of Ramapo Tax Map as Section 50.05, Block 1, Lot 22.

-----X
 WHEREAS, the Applicant Boruch Gutman of 16 Brockton Road, Spring Valley, 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 minimum side yard of sixteen feet-nine inches (16'9") rather than the minimum required side yard of twenty (20') feet; (2) a total side yard of forty-six feet (46'0") rather than the minimum total side yard of fifty (50') feet; and (3) having an impervious surface of .27 rather than the maximum impervious surface of .25., and the Board of Appeals having held a public hearing on March 1, 2023;

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

FINDINGS OF FACT

FIRST: The applicant Boruch Gutman of 16 Brockton Road, Spring Valley, New York 10977 ("Applicant") is the owner(s) of the subject property ("Property").

SECOND: The Property is located on the East side of Brockton Road approximately 425± feet from the intersection of Michael Street and is located within a 2R-25 Zoning District and further identified on the Town of Ramapo Tax Map as Section 50.05, Block 1, Lot 22.

THIRD: The Applicant wishes to obtain a building permit to permit the construction, maintenance and use of a single-family dwelling having: (1) a minimum side yard of sixteen feet-nine inches (16'9") rather than the minimum required side yard of twenty (20') feet; (2) a total side yard of forty-six feet (46'0") rather than the minimum total side yard of fifty (50') feet; and (3) having an impervious surface of .27 rather than the maximum impervious surface of .25, located on the East side of Brockton Road approximately 425± feet from the intersection of Michael Street.

FOURTH: To permit the construction, maintenance and use of a single-family dwelling having: (1) a minimum side yard of sixteen feet-nine inches (16'9") rather than the minimum required side yard of twenty (20') feet; (2) a total side yard of forty-six feet (46'0") rather than the minimum total side yard of fifty (50') feet; and (3) having an impervious surface of .27 rather than the maximum impervious surface of .25, variations from the requirements of 290-37 (Table of Dimensional Requirements) of the Zoning Ordinance of the Village of New Hempstead are required.

FIFTH: On January 5, 2023, 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 Applicant submitted necessary documentation to bring the application to the Village of New Hempstead's Zoning Board of Appeals ("ZBA").

FIFTH: At the public hearing before the ZBA on March 1, 2023, the Applicant 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, and further determined that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood and that the benefit sought by the Applicants cannot be achieved by some other means, other than the requested variances. Additionally, two of the variances were pre-existing conditions, with the now application all appearing minor.

At the public hearing, the Zoning Board of Appeals gave access to a public hearing and no members of the public appeared and no one opposed the requested variance, and with the Board considering all input from the public.

SEVENTH: In evaluating the need for these variance requests this ZBA considered the factors outlined for Area Variances in Section 290-90 (B) of Code of the Village of New Hempstead.

EIGHTH: In such evaluation, the ZBA, based on the testimony/documentation/evidence submitted/heard, determined that an undesirable change will not be produced in the character of the neighborhood, or the granting of the variances will not create a detriment to nearby properties.

NINTH: In such evaluation, the ZBA, based on the testimony/documentation/evidence submitted/heard, determined that the benefit sought by the Applicants 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: In such evaluation, the ZBA, based on the testimony/documentation/evidence submitted/heard, determined that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood.

ELEVENTH: In such evaluation, the ZBA, based on the testimony/documentation/evidence submitted/heard, determined that the alleged difficulty was not self-created, the same shall not necessarily preclude the granting of the variance.

TWELFTH: In such evaluation, the ZBA, based on the testimony/documentation/evidence submitted/heard, determined that the interest of justice would be served by granting of the requested variances to the Applicant.

CONCLUSIONS OF LAW

FIRST: The ZBA 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 ZBA pursuant to Section 290-90(B) of the Code of the Village of New Hempstead may grant variations in the strict application of any provision of the Village's ordinances, including, but not limited to the Table of Dimensional Requirements/Section 290-37.

THIRD: The Board of Appeals of the Village of New Hempstead does hereby grant the applicant Boruch Gutman of 16 Brockton Road, Spring Valley, 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 single-family dwelling having:

(1) a minimum side yard of sixteen feet-nine inches (16'9") rather than the minimum required side yard of twenty (20') feet;

(2) a total side yard of forty-six feet (46'0") rather than the minimum total side yard of fifty (50') feet; and

(3) having an impervious surface of .27 rather than the maximum impervious surface of .25.

and pursuant to the plans submitted from Anthony R. Celentano P.E., dated/revised December 7, 2022 .

The Property affected is situated on the East side of Brockton Road approximately 425± feet from the intersection of Michael Street and is located within a 2R-25 Zoning District and further identified on the Town of Ramapo Tax Map as Section 50.05, Block 1, Lot 22.

The Property shall continue as a single-family dwelling.

FOURTH: The granting of the variances approved above are subject to the Applicant's compliance with the applicable comments as referenced in the following letters/comments: Rockland County Sewer District, letter dated 2.24.23. Additionally, the Variances approved herein, with those the identified conditions and/or subject to compliance, shall run with the land and shall bind any successor in interest to the Applicant.

FIFTH: The Building Inspector is hereby authorized to issue a building permit to the Applicant for the above-described application subject to compliance with all local laws and ordinances of the Village of New Hempstead, including but not limited to Section 290-99 which governs the expiration of variances.

The ZBA gives no approval of any building plans, the same submitted to this ZBA solely for the purposes of the variances being requested.

Deputy Chairman Taub called for a roll call vote and the vote was as follows: Mr. Zamir, YES, Mr. Rothman, YES, and Mr. Berger, YES.

The Resolution was adopted by a vote of 4- 0 .

MOTION TO ADJOURN

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

Resolution #ZBA 2023-5

Resolved, that the meeting held by the Zoning Board of Appeals on March 1, 2023
Is hereby adjourned. Deputy Chairman Taub called for a vote. The vote was 4-0. The resolution
was adopted.

Respectfully submitted,
Amanda Bettello, Deputy Village Clerk- Treasurer