

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

ZONING BOARD OF APPEALS

REGULAR MEETING
Wednesday March 22, 2023
7:30pm
VILLAGE HALL

PRESENT

SOLOMON FUERST, CHAIR
MOSHE ZAMIR
CHAIM BERGER (ADHOC)

ABSENT

ARYEH TAUB
ELLIOT ZISMAN
MEIR ROTHMAN

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, DECEMBER 21, 2022 AND MARCH 1, 2023

There were not enough members present who attended the meetings to approve the August 25, 2021 and March 1, 2023 set of minutes. Those minutes will be held over until the next date.

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

Resolution # ZBA 2023-6

Resolved, that the Zoning Board of Appeals hereby approves the minutes of the ZBA meeting held on December 21, 2022 and the reading of said minutes is waived. Chairman Fuerst called for a vote. The vote was 3-0.

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.

Ms. Bettello stated it ran in the Rockland Journal News on March 10, 2023 affidavits of notice and postings were timely.

Anthony Celentano, Engineer for the applicant

Presently, there are three tax lots for this application. The owner of number 20 owns two tax lots, tax lot of 66 and 67. 66 has an existing house on it and 67 is a vacant lot. 67 is a flag lot out to McNamara Road that is north of 67.1. The owner of 67.1 which is 32 McNamara approached number 20 McNamara and said he'd like to acquire a portion of the property tax lot 67 to make his lot bigger. In doing so he would land lock the piece in the back. So therefore, we would merge the piece in the back with number 20 and then number 32 would become substantially bigger than it is now with the with the lot line change. So now we're going from three lots to two lots, both lots are getting bigger. But the problem is number 32 as it presently stands is a very, very small lot and requires variances even though we're substantially increasing the size from what it is now all of these variances that we're requesting that you that you read off are existing. There'll be no construction proposed, it's just too I guess, legalize what's there now from what was grandfathered in. In theory we don't even have to come in front of you since they're already all existing and in fact we're making them better. The Villages professionals felt we should come to the board just to memorialize and legalize what's there now. We're not proposing any construction, number 32 would like to have a bigger area of land for his children. And that's what we're here for, a simple lot line change.

Chairman Fuerst and the applicants Engineer discussed the existing and proposed lot lines location.

Bruce Minsky, Village Attorney

Reiterated they are only presenting in front of the ZBA because of the merging of lots because there is no construction being proposed. Also mentioned they also presented at the previous evenings Planning Board meeting and got approval from the Planning Board subject to the ZBA.

The Board and applicants engineer discussed that if they were to do additional construction in the future they will have to come back in for the variances.

The Village Attorney reiterated that when the ZBA does the resolution it should state that these are all existing conditions that were voted on.

Correspondence Referenced into the Record:

Rockland County Sewer 2.24.23

Rockland County Sewer 2.9.23

Rockland County Health 2.10.23

Ramapo Department of Public Works 2.3.23

Hillcrest Fire Co. 1.23.23

Rockland County Planning 1.30.23

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

Resolution # ZBA 2023-7

Resolved, that the Zoning Board of the Village of New Hempstead here by open the Public Hearing for Dovid Nitzlich 20, 30, 32 McNamara Road. Chairman Fuerst called for a vote, the vote was 3-0. The resolution was adopted.

Cohn, 44 McNamara

Wanted clarification on the new variances and whether things would still be grandfathered in or not going forward.

The Village Attorney clarified that all those preexisting conditions will no longer be grandfathered and any expansion on the house would require them to come in for variances.

There was also discussion between the resident and the board regarding concerns that the house would be demolished and rebuilt as well as worry of the property in the future being subdivided and built on. The board assured her that the process for such a thing is not so simple and there are elements of consideration that must be addressed.

Aliza Klein, 8 Wayne Road

Suggested that the Village have some sort of notation on the property to make it official as she is concerned the property owner will find a way around the impervious surface and footprint. She suggested that something be put in writing stating that if they want to do any construction all these variances that are now accepted would go out the window and they would have to start the process over again.

The board explained that any building on the house would require them to come back in front of the board for a variance. The variance is covered in preexisting conditions.

Miriam Seif, 38 McNamara

Wanted to know if the owner of the property plans to live in the house, which was confirmed by the applicant.

Bruce Klein, 8 Wayne Road

Asked if the applicant could tear down the current house and build in the same footprint a three story multifamily home in which the board advised no, not legally.

Sheila Hirschhorn, 98 McNamara

Asked for clarification regarding the garage sizing and the board explained that it is three feet from the property line and not three feet in size as she had thought.

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

Resolution # ZBA 2023-8

Resolved, that the Zoning Board of the Village of New Hempstead here by Close the Public Hearing for Dovid Nitzlich 20, 30, 32 McNamara Road. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

It would be approving the existing variances from section 290 of the zoning board. And those are the lot area 80,005 52 instead of 4000 the lot with the 121 72 instead of the one of the frontages wait point five feet instead of a 50. The rear yard at 39.1 instead of 50 the F AR point one six instead of the maximum of 2.1 the impervious surface 2.23 instead of two point instead of point two and the highest of the three stories instead of the printed two stories, but that's only a foot currently exists not from what may be built that's not included and requesting a year right for the year. yard for the garage of 24 feet instead of 50. And the size of the three feet is 25. And again, the variances granted would be subject to the completion of resolving any comments or requirements from Brooklyn sewer for the February 9 And February 24. Rockland County is held on February 10. The route the Department of Public Works February 3, the Hillcrest fire departments of January 23 and Rockland County planning of one of January 30 2020

Resolution # ZBA 2023-9

Resolution # ZBA 2023 – 9

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In the Matter of Application # ZBA 2023-9, Dovid Nitzlich of 20, 32 and 34 McNamara 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) having (1) a lot area 18,552 square feet instead of the minimum permitted lot area of 40,000 square feet; (2) a lot width of 128,72 feet rather than the minimum required lot width of 150 feet; (3) a front-yard setback of 48.5 feet rather than the minimum front yard setback of 50 feet; (4) a rear yard setback of 39.1 feet rather than the minimum required rear yard setback of 50 feet; (5) an impervious surface ratio of .23 rather than the maximum permitted impervious surface ratio of .20; (6) a floor area ratio of .16 rather than the maximum permitted floor area ration of .10; (7) a height of 3 stories rather than the maximum permitted height of 2.5 stories; (8) a rear yard for the garage of 24 feet rather than the required 50 feet; (9) a side-yard for the garage of 3 feet rather than the required side yard of 25 feet; The premises affected are situate on the North side of McNamara Road approximately 300± feet from the intersection of Union Road and is located within a 1R-40 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.13, Block 1, Lots 66, 67 and 67.1.

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WHEREAS, the Applicant Dovid Nitzlich of 20, 32 and 34 McNamara 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 for use of

a single-family dwelling having (1) a lot area 18,552 square feet instead of the minimum permitted lot area of 40,000 square feet; (2) a lot width of 128,72 feet rather than the minimum required lot width of 150 feet; (3) a front-yard setback of 48.5 feet rather than the minimum front yard setback of 50 feet; (4) a rear yard setback of 39.1 feet rather than the minimum required rear yard setback of 50 feet; (5) an impervious surface ratio of .23 rather than the maximum permitted impervious surface ratio of .20; (6) a floor area ratio of .16 rather than the maximum permitted floor area ration of .10; (7) a height of 3 stories rather than the maximum permitted height of 2.5 stories; (8) a rear yard for the garage of 24 feet rather than the required 50 feet; (9) a side-yard for the garage of 3 feet rather than the required side yard of 25 feet and the Board of Appeals having held a public hearing on March 22, 2023;

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

FINDINGS OF FACT

FIRST: The applicant Dovid Nitzlich of 20, 32 and 34 McNamara Road, Spring Valley, New York 10977 is the owner(s) of the subject property.

SECOND: The applicant's property is located on the North side of McNamara Road approximately 300± feet from the intersection of Union Road and is located within a 1R-40 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.13, Block 1, Lots 66, 67 and 67.1.

THIRD: The applicant wishes to obtain a building permit to consolidate three existing lots into two lots and maintain a single-family dwelling on the combined lots having (1) a lot area 18,552 square feet instead of the minimum permitted lot area of 40,000 square feet; (2) a lot width of 128,72 feet rather than the minimum required lot width of 150 feet;

(3) a front-yard setback of 48.5 feet rather than the minimum front yard setback of 50 feet; (4) a rear yard setback of 39.1 feet rather than the minimum required rear yard setback of 50 feet; (5) an impervious surface ratio of .23 rather than the maximum permitted impervious surface ratio of .20; (6) a floor area ratio of .16 rather than the maximum permitted floor area ration of .10; (7) a height of 3 stories rather than the maximum permitted height of 2.5 stories; (8) a rear yard for the garage of 24 feet rather than the required 50 feet; (9) a side-yard for the garage of 3 feet rather than the required side yard of 25 feet located on the North side of McNamara Road approximately 300± feet from the intersection of Union Road

FOURTH: To permit the consolidation of the proposed lots and use of a single-family dwelling on the lots having (1) a lot area 18,552 square feet instead of the minimum permitted lot area of 40,000 square feet; (2) a lot width of 128,72 feet rather than the minimum required lot width of 150 feet; (3) a front-yard setback of 48.5 feet rather than the minimum front yard setback of 50 feet; (4) a rear yard setback of 39.1 feet rather than the minimum required rear yard setback of 50 feet; (5) an impervious surface ratio of .23 rather than the maximum permitted impervious surface ratio of .20; (6) a floor area ratio of .16 rather than the maximum permitted floor area ration of .10; (7) a height of 3 stories rather than the maximum permitted height of 2.5 stories; (8) a rear yard for the garage of 24 feet rather than the required 50 feet; (9) a side-yard for the garage of 3 feet rather than the required side yard of 25 feet, variations from the requirements of 290-37 (Table of Dimensional Requirements) of the Zoning Ordinance of the Village of New Hempstead are required.

FIFTH: The applicant stated that the granting of the variances will allow for 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: The Village of New Hempstead Planning Board previously approved the design concept subject to the applicant obtaining the necessary variances. As such, the matter was referred to the Village of New Hempstead Zoning Board of Appeals for further proceedings. The applicant submitted the 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 Dovid Nitzlich of 20, 32 and 34 McNamara 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 consolidated use of a single-family dwelling having (1) a lot area 18,552 square feet instead of the minimum permitted lot area of 40,000 square feet; (2) a lot width of 128.72 feet rather than the minimum required lot width of 150 feet; (3) a front-yard setback of 48.5 feet rather than the minimum front yard setback of 50 feet; (4) a rear yard setback of 39.1 feet rather than the minimum required rear yard setback of 50 feet; (5) an impervious surface ratio of .23 rather than the maximum permitted impervious surface ratio of .20; (6) a floor area ratio of .16 rather than the maximum permitted floor area ration of .10; (7) a height of 3 stories rather than the maximum permitted height of 2.5 stories; (8) a rear yard for the garage of 24 feet rather than the required 50 feet; (9) a side-yard for the garage of 3 feet rather than the required side yard of 25 feet. Subject to the following condition:

- (a) There shall be no further building or construction on the combined lots without prior approval from the Village of New Hempstead;

The premises affected are situate on the North side of McNamara Road approximately 300± feet from the intersection of Union Road and is located within a 1R-40 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.13, Block 1, Lots 66, 67 and 67.1.

The Zoning Board of New Hempstead is voting on and approving all existing conditions and no new conditions will be created by the approvals granted herein.

Chairman Fuerst called for a roll call vote and the vote was as follows: Mr. Zamir, AYE, Mr. Berger AYE, and Chairman Fuerst, AYE The Resolution was adopted by a vote of 3-0.

PUBLIC HEARING OF ISAAC KOENIG, 29 TERRI LEE LN. THE APPLICANT IS REQUESTING VARIANCES FROM SECTION 290-37 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD. VARIANCES FOR (I) REQUESTING AN EXISTING NON-CONFORMING FRONT YARD TO THE EXISTING DWELLING OF 33.9' INSTEAD OF THE MINIMUM PERMITTED 50' (II) REQUESTING AN EXISTING NON-CONFORMING REAR YARD OF A SHED LESS THAN 160 SF OF 8.1' INSTEAD OF THE MINIMUM PERMITTED 16.7' (III) REQUESTING AN IMPERVIOUS SURFACE OF .213 INSTEAD OF THE MAXIMUM PERMITTED .20 (IV) REQUESTING A FRONT YARD TO THE PROPOSED ADDITION OF 33.9' INSTEAD OF THE MINIMUM PERMITTED 50'. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF TERRI LEE LN 0 +/- FEET FROM SCOTFORD RD. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 42.10 BLOCK 1 LOT 51 IN A 1R-35 ZONING DISTRICT.

Ms. Bettello stated it ran in the Rockland Journal News on March 10, 2023 affidavits of notice and postings were timely.

Isaac Koenig, Applicant

I've been here for about 20 years. As time goes on, as you know, your family expands. Getting variance was not the first thing that we looked for. We actually looked elsewhere in the neighborhood and other neighborhoods and we kind of actually like this neighborhood. We have the shul that we go to and neighbors we have and didn't really make sense for us to leave the neighborhood. We decided we're going to expand our kitchen and dining room so we can have more people, right now we're kind of squashed. We'd like to have more space there used for

more bedrooms as the kids get older. We decided to apply for the variance, as far as will it be detrimental? I don't believe it will be. We currently in the neighborhood have existing homes that have the same type of addition. On Brick Church where they pushed out on the same side, this house itself is going to be the same level. We're not going double decker we're just making it the same roofline. Also, on the block you have multiple houses that also extended their kitchen and dining room. We're just planning to do the same along those lines that extension. Would it be detrimental? I don't believe it would be I actually think it would increase the property values just because adding more bedrooms, bathrooms naturally does. I think the house was built 33.9 feet from the curb. The new extension is not grandfathered so we would need to ask that the variance be grandfathered in from the original 33.9 feet. From the roadside there will not be any differences as we are looking to expand outwards, not towards the road.

The Village Attorney explained that it is just extending to a point that already existed and adding an encroachment to an encroachment that already exists on a preexisting condition. So really the only new encroachment is just for the impervious surface. He confirmed that no GML was required.

Correspondence Referenced into the Record:

Rockland County Sewer 3.16.23

Town of Ramapo Department of Public Works 3.6.23

Rockland County Highway 2.22.23

The Village Chairman confirmed with the applicant that what is being proposed is a deck, patio and addition.

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

Resolution # ZBA 2023-10

Resolved, that the Zoning Board of the Village of New Hempstead here by open the Public Hearing for Isaac Koenig, 29 Terri Lee Lane. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

Esther Aufgang, 49 Summit Park Road

Wanted confirmation on what the variances are needed for as well as where the addition will be. The board explained that due to the proposed construction it will require a variance. Also explained the sizing of the addition and the distance from the neighboring property.

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

Resolution # ZBA 2023-11

Resolved, that the Zoning Board of the Village of New Hempstead here by Close the Public Hearing for Isaac Koenig, 29 Terri Lee Lane. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

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

Resolution # ZBA 2023-12

Resolution # ZBA 2023 – 12

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In the Matter of Application # ZBA 2023-12, Isaac Koenig of 29 Terri Lane, 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 front yard of 33.9 feet rather the minimum required front yard setback of 50 feet; (2) a rear yard of (for a shed of less than 160 square feet) of 8.1 feet rather than the minimum required rear yard 16.7 feet; (3) an impervious surface ratio of .213 rather than the maximum permitted impervious surface ratio of .20; and (4) a front yard of a proposed addition of 33.9 feet rather than minimum front yard of 50 feet. The premises affected are situate on the West side of Terri Lane at its intersection with Scotford Road and is located within a 1R-35 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.10, Block 1, Lot 51

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WHEREAS, the Applicant Isaac Koenig of 29 Terri Lane, 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 front yard of 33.9 feet rather the minimum required front yard setback of 50 feet; (2) a rear yard of (for a shed of less than 160 square feet) of 8.1 feet rather than the minimum required rear yard 16.7 feet; (3) an impervious surface ratio of .213 rather than the maximum permitted impervious surface ratio of .20; and (4) a front yard of a proposed addition of 33.9 feet rather than minimum front yard of 50 feet., and the Board of Appeals having held a public hearing on March 22, 2023;

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

FINDINGS OF FACT

FIRST: The applicant Isaac Koenig of 29 Terri Lane, Spring Valley, New York 10977 is the owner(s) of the subject property.

SECOND: The applicant's property is located on the West side of Terri Lane at its intersection with Scotford Road and is located within a 1R-35 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.10, Block 1, Lot 51

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 front yard of 33.9 feet rather the minimum required front yard setback of 50 feet; (2) a rear yard of (for a shed of less than 160 square feet) of 8.1 feet rather than the minimum required rear yard 16.7 feet; (3) an impervious surface ratio of .213 rather than the maximum permitted impervious surface ratio of .20; and (4) a front yard of a proposed addition of 33.9 feet rather than minimum front yard of 50 feet, located on the West side of Terri Lane at its intersection with Scotford Road.

FOURTH: To permit the construction, maintenance and use of a single-family dwelling having (1) a minimum front yard of 33.9 feet rather the minimum required front yard setback of 50 feet; (2) a rear yard of (for a shed of less than 160 square feet) of 8.1 feet rather than the minimum required rear yard 16.7 feet; (3) an impervious surface ratio of .213 rather than the maximum permitted impervious surface ratio of .20; and (4) a front yard of a proposed addition of 33.9 feet rather than minimum front yard of 50 feet, variations from the requirements of 290-37 (Table of Dimensional Requirements) of the Zoning Ordinance of the Village of New Hempstead are required.

FIFTH: 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. 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 1/17/2023, 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.

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 Isaac Koenig of 29 Terri Lane, 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 front yard of 33.9 feet rather than the minimum required front yard setback of 50 feet; (2) a rear yard of (for a shed of less than 160 square feet) of 8.1 feet rather than the minimum required rear yard 16.7 feet; (3) an impervious surface ratio of .213 rather than the maximum permitted impervious surface ratio of .20; and (4) a front yard of a proposed addition of 33.9 feet rather than minimum front yard of 50 feet. The premises affected are situated on the West side of Terri Lane at its intersection with Scotford Road and is located within a 1R-35 Zoning District and further identified on the Town of Ramapo Tax Map as Section 42.10, Block 1, Lot 51

Chairman Fuerst called for a roll call vote and the vote was as follows: Mr. Zamir, AYE, Mr. Berger, AYE and Chairman Fuerst, AYE The Resolution was adopted by a vote of 3-0.

PUBLIC HEARING OF BAYLA PEARLSTEIN., 280 HEMPSTEAD RD. NEW HEMPSTEAD NY 10977, THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF HEMPSTEAD RD. 545 +/- FEET FROM THE INTERSECTION OF NEW HEMPSTEAD RD. THE PROPERTY IS DESIGNATED ON THE TOWN OF RAMAPO TAX MAP AS SECTION 42.14 BLOCK 2 LOT 33 IN A 1R-25 ZONING DISTRICT. THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 290-28 OF THE ZONING LAW OF THE VILLAGE OF NEW HEMPSTEAD FOR VARIANCES FROM CURRENT SITE CONDITIONS AS FOLLOWS:

- **LOT AREA-24,941 SF WHEN 25,000 SF IS REQUIRED**
- **IMPERVIOUS SURFACE-0.43 WHEN 0.25 IS PERMITTED**
- **ACCESSORY STRUCTURE (EXISTING VINYL SHED) UNDER 160 SF (1/3) SIDE YARD-6.2' WHEN 6.66' IS REQUIRED**
- **ACCESSORY STRUCTURE (EXISTING FRAME SHED) OVER 160 SF SIDE YARD-6.3' WHEN 20' IS REQUIRED**
- **290-25.A.(1) FENCE OR WALL MAY NOT EXCEED 6' IN HEIGHT INSIDE OR REAR YARD (EXISTING BASKETBALL COURT FENCE)-12' HEIGHT WHEN 6' IS PERMITTED.**
 - **PLEASE NOTE THIS FENCE IS WITHIN BOTH THE REQUIRED SIDE AND REAR YARDS**

THE VARIANCES UNDER THE PROPOSED SITE CONDITIONS ARE AS FOLLOWS:

- **LOT AREA-24,941 SF WHEN 25,000 SF IS REQUIRED**
- **IMPERVIOUS SURFACE-0.51 WHEN 0.25 IS PERMITTED**
- **ACCESSORY STRUCTURE (EXISTING VINYL SHED) UNDER 160 SF (1/3) SIDE YARD-6.2' WHEN 6.66' IS REQUIRED**
- **ACCESSORY STRUCTURE (EXISTING FRAME SHED) OVER 160 SF SIDE YARD-6.3' WHEN 20' IS REQUIRED**
- **ACCESSORY STRUCTURE (PROPOSED POOL) OVER 160 SF SIDE YARD-10' WHEN 20' IS REQUIRED**
- **ACCESSORY STRUCTURE (PROPOSED POOL) OVER 160 SF REAR YARD-10' WHEN 35' IS REQUIRED**
- **290-25.A.(1) FENCE OR WALL MAY NOT EXCEED 6' IN HEIGHT IN SIDE OR REAR YARD (EXISTING BASKETBALL COURT FENCE)-12' HEIGHT WHEN 6' IS PERMITTED.**
 - **PLEASE NOTE THIS FENCE IS WITHIN BOTH THE SIDE AND REAR YARD**
- **290-25.A.(1) FENCE OR WALL MAY NOT EXCEED 6' IN HEIGHT IN SIDE OR REAR YARD (PROPOSED POOL FENCE ON TOP OF WALL)-10.3' HEIGHT WHEN 6' IS PERMITTED.**
 - **PLEASE NOTE THIS FENCE IS PROPOSED WITHIN BOTH THE REQUIRED SIDE AND REAR YARDS**

Ms. Bettello stated it ran in the Rockland Journal News on March 10, 2023 affidavits of notice and postings were timely.

Anthony Celentano, representing the applicant reviewing plans prepared by Paul Gdanski Mrs. Pearlstein has a very large family. They like to enjoy and use their property they have a basketball court as you see and they'd like to propose a pool. So, in the summer months they can enjoy a pool at a setback in the corner of the lot. They are proposing an 800 square foot

pool which is about 20x40. They would like to get this project going so they can start the process of the pool and they want to try to make the season. They also want to legalize the existing sheds a little too close to lot line and they're a little bit over on the impervious surface ratio they would like to get that legalized as well. They're here now to get the process going and hear from the public, and concerns, and address any issues that the board may have.

The Village Attorney and Board members discussed the different accessory structures that are already existing on the property and being proposed including 2 sheds, a pool, and a basketball court as well as the variances that would be necessary.

The Village Chairman explained the layout of the current driveway and basketball court in reference to impervious surface.

In the last meeting we didn't understand what was proposed, what was existing or anything of that nature. That was part of the major issues in the last meeting. At this meeting they're showing what is existing. As I understand asking for variances, everything that's existing, where one part of it has an even greater variance being requested than the last meeting. The only thing I discussed with the applicant was looking at the property and that's something she would have to discuss with her engineers and that is, is there any reasonable way to mitigate this variance on impervious because that's a huge request in comparison to almost anything in the area without having a good reason. I mean, the reasoning that a lot of people are coming in out, the steep street and all those things those are definitely good arguments. However, there are a lot of properties that have a lot of those attributes that don't have that kind of coverage. One of the ideas was it their way, either its grass or its pavers, I don't know what's permitted or not to bring it down to a pervious surface. That's where you come in. And like I said, if you're proposing to cut out part of a driveway or part of the blacktop in certain areas, Anthony's going to have to come up with the calculations of what they are to be able to get it to a number that's somewhat palatable.

The Village Chairman, Attorney and Engineer discussed possible options to cut down on the impervious surface of the property as well as the possibility of moving one of the sheds.

Correspondence Referenced into the Record:

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

Resolution # ZBA 2023-13

Resolved, that the Zoning Board of the Village of New Hempstead here by open the Public Hearing for Bayla Pearlstein, 280 Hempstead Rd., New Hempstead NY 10977. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

Marva Fletcher, 286 Hempstead Rd.

Had questions regarding houses of worship, zoning and business registrations. Had a list of grievances such as foot and vehicle traffic, the playing of basketball late at night, noise, lights, garbage, large fence, tents, trash, debris, and an overall lack of privacy. Also stated there is a shed and walking path very close to the property line.

Johnson, 286 Hempstead Rd.

Had a list of concerns including a lack of privacy largely due to a walking path that crosses through the neighboring property from Hempstead Rd. to the Westview Rd.

The Village Chairman explained that there are certain things that do and do not have to be brought to the board for clearance. He did confirm that there is indeed a path that crosses through the property.

The Village Attorney explained that you can make a path going through your property that is an impervious surface. Where issues may come in is if it puts the property over the limit for the amount of impervious surface that is allowed, as well as if it creates a nuisance.

Akiva Krause, 27 Westview Rd.

Wanted to state that she is the neighbor in the rear of the Pearlstein's property. She utilizes the walking path for her daughter in a wheelchair because it is dangerous to walk on the busy streets. The walking path is intended for private use only and was built by the Pearlstein's to assist in their daughter being able to go out into the community. She stated that the Pearlstein's do have a large family and an extended family who visit often. They do have events at times but are always sure to clean up after.

Moshe Schulgasser, 3 Flamingo Ln.

He is a friend of the Pearlsteins and does understand the concerns of the neighbors. Stated the residents are very limited because there are not many sidewalks within the Village. At times it can be dangerous to walk on the streets so the residents utilize a network of pathways throughout the Village. He does understand that this could be an issue of privacy and suggested maybe it is something that can be discussed.

There was some discussion between the board and Mr. Schulgasser regarding impervious surface and working with the projects Engineers on what percentages are permitted.

Natan Rapaport, 274 Hempstead

Had comments regarding the impervious coverage as well as the basketball court and fence. Hopes that as neighbors something can be worked out and put in as a community to allow for more privacy for the neighbors next to the path.

Joel Bernstein, 229 Hempstead Rd.

Agrees that the privacy aspect could be mitigated in an easier way.

Mordche Teitelbaum, 128 Hempstead Rd.

Wanted to apologize to the neighbor if his usage of the path was excessive. Is going to refrain from utilizing it at times other than during inclement weather as that is what was asked of him by the Pearlstein's.

Bayla Pearlstein, 280 Hempstead Rd.

Feels uncomfortable that there is animosity and frustration. Apologized for the neighbor feeling people are looking into their bedroom.

The Village Chairman clarified the neighbor is concerned with the crest of the path and reiterated what is here to be presented in front of the board.

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

Resolution # ZBA 2023-14

Resolved, that the Zoning Board of the Village of New Hempstead here by Adjourn the Public Hearing for Bayla Pearlstein, 280 Hempstead Rd., New Hempstead NY 10977 to April 26, 2023. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

MOTION TO ADJOURN

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

Resolution #ZBA 2023-15

Resolved, that the meeting held by the Zoning Board of Appeals on March 22, 2023 Is hereby adjourned. Chairman Fuerst called for a vote. The vote was 3-0. The resolution was adopted.

Respectfully submitted,
Amanda Bettello, Deputy Village Clerk- Treasurer