

Village of Chestnut Ridge  
Zoning Board of Appeals  
December 18, 2017

Present: Stephen Liebman-Chairman, Susan Silverman-Deputy Chairperson, Ally Thorne, Ed Manning, Stanley Waldbaum, Duane Penister, Michael Grossman, Bruce Goldsmith-Alternate

Also Present: Walter R. Sevastian-Village Attorney, Mary Ballek-Secretary to the Board, Cheryl Sluys-Recording Secretary

The meeting was held at the Chestnut Ridge Middle School auditorium, 892 Chestnut Ridge Road at 7:30 P.M.

Mr. Liebman welcomed everyone and said we are here to uphold the zoning laws; we cannot write or re-write the code. Mr. Liebman then went over the procedure that will be followed.

1. Applicants will be sworn in.
2. Applicants and their attorney will discuss the reason for their appeal and take questions from the Board.
3. The meeting will then be opened to the public for comments. Mr. Liebman requests members of the public not call out questions, keep comments short and relevant to the facts. Mr. Liebman said we are required to leave the building by 10 P.M. Unfinished business will be adjourned until next month.

Mr. Liebman then said he realizes this is an adversarial situation with strong emotions. Mr. Liebman requests everyone focus on the agenda and deal with the facts; anything said here is in accordance with the law. Lastly, Mr. Liebman said if offensive comments are made, that person will be asked to be seated.

1. **3 Spring Hill Terrace – Public Hearing to consider the application of 3 Spring Hill Terrace (Applicant Hilda Kogut and Carole Goodman).** The application is seeking to appeal the Building Department's determination on the following conditions: To appeal the decision made by the Building Department to issue a Certificate of Occupancy (C/O) for a structure at the above-mentioned address.  
**Tax designation: 67.08-1-70, Zone R-25**

Steven Mogel, Esq. (Attorney for Applicant), Hilda Kogut, Applicant and Carole Goodman, Applicant appeared.

Hilda Kogut of 20 Pine Knoll Court and Carole Goodman of 964 Chestnut Ridge Road affirmed to tell the truth.

Mr. Mogel said applicants are aggrieved by the September 20, 2017 decision of the Building Inspector to issue a CO but it is unquestionable that the ZBA can uphold or overturn the decision of the Building Inspector. That authority of the ZBA derives from New York State law and Chestnut Ridge village law. Mr. Mogel distributed a copy of McKinney's Village Law, Sec. 7-712-a (hearing appeals paragraph highlighted) to Mr. Liebman and the Board members.

Mr. Sevastian said to be crystal clear; the decision being appealed is the Building Department's decision to issue a Certificate of Occupancy.

Mr. Mogel then distributed the following sections of Chestnut Ridge Village Law to Mr. Liebman and the Board members: XIV (3, 10A, 10C, 11C, 16 – all highlighted), XV (2A highlighted) and XVI. Mr. Mogel said the law allows for the Building Inspector's decision with regard to a building permit or CO to be reviewed and overturned if found to be inappropriate. Mr. Mogel read aloud XIV, #3 concerning the granting of building permits and certificates of occupancy and/or use.

Mr. Sevastian questioned how this reconciles with XIV, #11 – issuance of certificates of occupancy and/or use.

Mr. Mogel replied look at the New York State Building Code.

Mr. Sevastian said the crux is that the CO indicates construction complies with the plan.

Mr. Mogel said we are here today to challenge the CO for a 1700 square foot 3 car garage with a storage mezzanine, 2 water closets and 5 lavatories.

Mr. Sevastian said the storage mezzanine was on the Building Inspector's plans.

Mr. Mogel said the construction drawings show men and women's restrooms. Mr. Mogel then said this is an appellate review board and he submits there is no way this was intended to be used as a garage.

Mr. Sevastian said this was a decision of people who interpret the code; the Building Inspector had the plans in front of him. Is it your position that a decision was made when the CO was issued?

Mr. Mogel said the building plans, permits and CO had to be approved.

Mr. Sevastian asked if there is evidence that shows something different in the plans when the CO was issued v. the building permit plans.

Mr. Mogel said any bathroom in a garage is ludicrous; segregated bathrooms are even more ludicrous.

Mr. Sevastian said a building permit was issued on February 18, 2016 and the permit was amended on December 5, 2016 and June 2, 2017. Mr. Sevastian then said the initial decision could have been challenged.

Mr. Mogel said pursuant to a special use permit there has to be a site plan, public hearing and presentation to the Village Board. Parking, noise and light pollution would have been discussed; however, everything was done essentially in secret. The Building Inspector acted far beyond his discretion.

Mr. Sevastian said the Building Inspector is charged with making determinations. There are timely issues involved, i.e., when the foundation is going in.

Mr. Mogel said this is a two story structure with 3 garage doors that open out, a storage mezzanine, and two emergency exits. Construction outside the bounds of law is void. Mr. Mogel then said this building is advertised in a magazine as a synagogue. Mr. Mogel noted that the congregation's president, Wolf Rosenberg, says this is not a synagogue. It is for cars and storage.

Mr. Sevastian said why not make this a case of a simple code violation; a build to use as something else to remedy the situation.

Mr. Mogel said the Building Inspector could decide to issue a violation but can't be forced to enforce the code. The CO must be challenged. We will seek the relief we are entitled to and proceed with an Article 78 if we need to go on.

Mr. Mogel then distributed an article "What is Rosh Hashanah?" to Mr. Liebman and the Board members.

Mr. Sevastian asked the relevance/purpose of the exhibit.

Mr. Mogel said videos show boys and men entering the back door, women and girls walking the staircase to the mezzanine on Rosh Hashanah.

Mr. Liebman asked where the videos originated.

Mr. Mogel said they were acquired by a neighbor.

Mr. Sevastian said we need to know the videos were taken on the days indicated. Mr. Sevastian then said if the CO was issued in error, you can do something as long as it is timely. Your rights must be asserted. The CO must comply with the submitted plans. Based upon the appeal in front of the Board, the Building Inspector erroneously classified the build as a garage. At some point applicant had to act on being aggrieved. You must act when the decision you are appealing was made.

Mr. Mogel said the CO is not a decision.

Mr. Sevastian said the Board is not taking any position. If the CO was issued on a prior determination, it matters. If the appeal was filed after the work was completed it is too late.

Mr. Mogel said that doesn't apply because the property owner has "unclean hands". It was not a mistake; they lied. Photographs of the building on Rosh Hashanah and Yom Kippur were presented to Mr. Liebman and the Board members. Mr. Mogel said this is not a garage. Mr. Mogel continued the issuance of a CO is unlawful because the structure is a synagogue. A special use permit should have been applied for, a process that would have promoted harmony with the neighbors. Mr. Mogel then said the Rockland County Sewer District #1 letter of December 11, 2017 is not immaterial.

Mr. Liebman asked Mr. Mogel to clarify where on that Sewer District letter it assumes a CO was granted for a synagogue.

Mr. Mogel said paragraph #2 calls it a place of worship. We are not dictating you must determine it is a place of worship. It was always intended to be a synagogue. We ask that you give community members the relief they are asking for or do you pass the buck.

Mr. Mogel presented a photograph of the structure taken on December 12, 2017. It was very lit up, i.e., light pollution. Mr. Mogel said this would have been discussed if a special use permit had been sought. Mr. Mogel then read the July 21, 2016 Board of Trustees minutes. The garage is to be used as a garage; the tables and chairs are a grey area.

Mr. Sevastian said this is a use issue.

Mr. Mogel asked if there were any questions from the Board members.

Mr. Sevastian questioned if Mr. Mogel said when the building permit was filed the applicant was untruthful. Should the Building Inspector assume applicant was not truthful?

Mr. Mogel said the CO should be revoked. The Building Inspector has the ability and obligation to determine if applicant is truthful.

Mr. Sevastian said different people can make different decisions. Mr. Sevastian then said in case law the doctrine of laches is equitable.

Mr. Mogel replied when someone asserts an equitable defense on their own behalf the ZBA can't assert laches. Mr. Mogel argues applicant can't assert laches because of unclean hands.

Mr. Sevastian said you may have to look further at legal standards.

Mr. Liebman asked applicants to come forward.

Carole Goodman read a statement noting after 52 years in Chestnut Ridge her life has been disrupted by construction of this building, garbage left on her property, the illegal/huge edifice of the building, bright lights shining into her property sometimes all night. Ms. Goodman also said there has been a celebration for a new Torah. She asks the ZBA to correct this situation and restore serenity to the neighborhood.

Hilda Kogut said she has lived in Chestnut Ridge for 24 years. Ms. Kogut then said we of the village told the Building Inspector of our complaints about construction, increased cars, etc., hoping he would realize this structure was not a 3 car garage. Ms. Kogut added the Building Inspector should be proactive, not reactive.

Mr. Liebman asked the Board members if they had any questions. There were none.

Mr. Liebman opened the meeting to the public.

Mr. Sevastian said the open period is to allow the public to express their opinions. There will be no animus; there will be respect. Mr. Sevastian then said his job is to protect the village as a whole.

Magali Dupuy of 49 Spring Hill Terrace affirmed to tell the truth and said she took several pictures during excavation and was told if a waste pipe is put in, we will act. Nothing was done. Ms. Dupuy constantly reported violations, i.e., New Jersey vans with no Rockland County license. Ms. Dupuy then said she was told by the Chestnut Ridge Mayor that action would be taken if the building starts to be used as more than a garage. It is frightful on the Sabbath; cars are parked to the corner of Route 45, children without reflectors are playing in the street. Ms. Dupuy said this situation has been reported from the inception to the present. It is a safety hazard. Do something.

Carol Jacobs of 55 Spring Hill Terrace affirmed to tell the truth and made a statement about latches. We didn't sit on our rights. We tried desperately to have our rights upheld. We made every effort to have all the Village Boards aware of what was going on. 1) A permit was issued to create a violation. 2) What is the first and last date a car was in the garage, if ever.

Mr. Liebman said nothing in the law says a car must be in the garage.

Ms. Jacobs continued: 3) A congregation needs a spiritual building. 4) Ms. Jacobs spoke to the Rabbi who used the term constituents rather than congregants. 5) "Study with the Rabbi" corresponds to service times. Ms. Jacobs then said with this situation the posted speed limit turning off Route 45 should be 5-10 mph because she is afraid of car doors opening, people dressed in dark clothes on the road at night, children running out into the street. She has observed women with bundles of food going to the building. At the Torah opening she was told there was a permit to block the street; none had been issued. There was no emergency access to the street in this situation. Police were called but the congregants have a detector to advise when police are coming. Ms. Jacobs said the Rabbi lives at 2 Spring Hill Terrace. She has seen transients there. The Building Inspector is part-time – he doesn't see the lights in the building. Ms. Jacobs then referred to the Gould property and said our Building Inspector is not aware; he needs to keep up with what is going on.

Mr. Liebman said we're specifically dealing with 3 Spring Hill Terrace.

Lee Grayson of 52 Wilshire Drive affirmed to tell the truth and said let's focus on the monstrosity that is called a garage. Mr. Grayson has concerns about the number of people using the building as well as fire and safety concerns which he has expressed at many meetings. I'm a taxpayer; that property is tax exempt. This Board is saying subsidize 3 Spring Hill Terrace to do an illegal activity while they thumb their noses at the Board. They lied to everyone. The spiritual leader said it was a garage. They should be held accountable. If it is to be a garage, convert it to a garage. Exercise ZBA powers – don't award people who have lied to us.

Maxmilian Gurdon of 34 Margetts Road affirmed to tell the truth and said he has lived in Chestnut Ridge for 22 years. This has struck a deep note of frustration and anger in me. Let's balance the environment and economy.

Anthony Averso of 40 Wilshire Drive affirmed to tell the truth and said at 7:15 A.M. he drives down Spring Hill Terrace; there are 10-20 cars parked every morning. Mr. Averso called the Building Department. Mr. Averso has also noted a 5" drainage pipe on the roof of the house to be used as a mikvah. Why did they need a 3 car garage when there is already a 2 car garage on the property? The Building Department and Planning Board have said there are temporary doors on the 3 car garage.

Mr. Averso tried to speak with the Mayor. The Deputy Mayor did call him and said this was a 3 car garage. That is what they applied for, not what they have. Mr. Averso questions inspections by the Building Department.

Ms. Silverman asked if the Building Inspector said the garage doors were temporary.

Mr. Averso said the Building Inspector indicated they would be substituted sometime in the future.

Howard Silverman of 6 Skye Place affirmed to tell the truth and said his wife in on the ZBA. Mr. Silverman said this 3 car garage has morphed into a schul. It could be used as a garage so it might have been difficult for the Building Inspector to not issue permits. The building could also be used as a restaurant or casino. Would that be allowed to continue? If not, why is this use allowed to continue.

Dennis Kutsin of 315 Ackertown Road affirmed to tell the truth and spoke of safety concerns. There are village laws as well as state and federal laws that deal with fire safety. What will a first responder find? Will someone have to die before his concerns are taken seriously?

Yoav Liberman of 22 Midway said he has a notion of what a synagogue is. The old 2 car garage on the property had already been turned into a synagogue. It is now becoming a mikvah but is called a spa.

Mr. Liebman said we have no definition of mikvah in our code.

Mr. Liberman said he saw the footings and went to the village to look at plans and FOILS. The original plans showed a second floor mezzanine going west to east; the plan was amended to have the mezzanine go from south to north. There is a blank space on the wall for the arc. Mr. Liberman then said all indications are the building is intended as a functioning synagogue. The Building Inspector's hands were tied; the intent of the structure was not disclosed. The process was started to mislead the village.

Mr. Manning asked who said that.

Mr. Liberman answered the Building Inspector.

Mr. Liebman said we have 15 minutes remaining. This will have to be carried over to the next meeting. We won't get to 10 Pine Knoll Court.

Jerry Liebelson of 31 Midway Road affirmed to tell the truth and suggested someone sit with the Building Department since the Building Inspector can't tell the difference between what is and what isn't a garage. The Building Inspector had no prior certification; he's learning on the job. At this time there is an influx of many new residents with large families and religious requirements. Mr. Liebelson submits the village doesn't have the resources to deal with changes in the village. Put a moratorium on building in the village. Increase taxes to hire a full time Code Enforcement Officer and competent Building Inspector. What has to change in terms of Chestnut Ridge laws so this won't continue to happen? Mr. Liebelson has taken 23 videos. At the July 2, 2017 Torah dedication the Haverum said they had a permit to close the road. This was not true.

Ms. Silverman asked if the Rabbi retained the services of Haverum.

Mr. Liebelson replied it was by recommendation. The Rabbi trusted Haverum.

Ed Sheridan of 46 Pascack Road affirmed to tell the truth and said we're all neighbors. We want the same thing. We have the right to express our grievances; the law applies to everyone.

Mr. Liebman complimented all the residents and said he appreciated their responses.

Mr. Mogel again said the doctrine of latches doesn't apply because the property owner has unclean hands. He will do research and submit case law on that issue.

Mr. Sevastian said the structure was built according to plans. It was identified as a garage from day one. Copies of Mr. Liebelson's videos were requested.

Mr. Mogel encouraged the ZBA to secure permission for a site visit.

Stephen Liebman made a motion seconded by Ed Manning to adjourn the matter until January 23, 2018. The following vote was taken: Stephen Liebman-yes, Ed Manning-yes, Susan Silverman-yes, Duane Penister-yes, Stanley Waldbaum-yes, Ally Thorne-yes, Michael Grossman-yes.

Ed Manning made a motion seconded by Michael Grossman to adjourn the meeting. The following vote was taken: Stephen Liebman-yes, Ed Manning-yes, Michael Grossman-yes, Susan Silverman-yes, Ally Thorne-yes, Stanley Waldbaum-yes, Duane Penister-yes.

