

Village of Chestnut Ridge  
Zoning Board of Appeals  
February 23, 2016

The meeting was called to order at 8:00 P.M. by Stephen Liebman, Chairman.

Present: Stephen Liebman-Chairman, Crystal Anthony, Duane Penister, Susan Silverman, Stanley Waldbaum, David Murdock, Ally Thorne

Also Present: Walter R. Sevastian-Village Attorney, Carol Fazio Hart-Secretary to the Board, Cheryl Sluys-Recording Secretary

1. **3 Swallow Avenue** – Application of Samuel Schron for an area variance relative to a project at the premises known as 3 Swallow Avenue, Chestnut Ridge, NY 10977 (tax designation **62.12-2-22**), in the R-25 Zoning District, Use Group t, as follows:  
FAR (Floor Area Ratio) of .34 where .20 is the maximum.

Ira Emanuel, Esq., (Attorney for Applicant), Arnold Hinneman (126 W. Maple Avenue, Monsey, NY), Builder, Samuel and Leba Schron, Applicants appeared.

Mr. Liebman discussed the application with the Board members. Mr. Liebman said there is a discrepancy between the original set of plans and the second set of plans. Mr. Liebman then said that livable space was created in the basement and that the house was completed without the necessary variance for the elevated FAR and that a C of O has not been issued. The Schron family is living in the house.

Mr. Liebman said the Schron's are requesting the variance so the C of O can be issued.

Mr. Hinneman, Leba and Samuel Schron affirmed to tell the truth.

Mr. Emanuel discussed the application with Mr. Liebman and the Board members. Mr. Emanuel said that In January 2015 there was a second set of plans submitted to the Building Department reflecting an increase in ceiling height and that those plans clearly showed the basement space was divided into rooms. Mr. Emanuel then said the plans bear the signature of the Building Inspector indicating they were approved.

Mr. Sevastian asked Mr. Emanuel if the architect ever submitted documentation to the Building Department showing any change in the bulk table that would have resulted from the increase in ceiling height. Mr. Sevastian then said there is an initial plot plan that shows the FAR at .20.

Mr. Emanuel said between January 2015 and January 2016 the Building Inspector conducted several inspections and in January 2016 the Building Inspector questioned the FAR,

Mr. Sevastian discussed with Mr. Emanuel the fact that the updated plans which reflected the increase in FAR were never submitted to the Chestnut Ridge Building Department until the Building Department requested those plans after a question arose during the building process.

Mr. Liebman and the Board members discussed their concern about whether this is a self imposed hardship. The second set of plans were dated November 28, 2014 and were never submitted to the Chestnut Ridge Building Department until asked for. Mr. Liebman and the Board discussed that an on-site plan should be available at all times for the inspector to review and why wasn't the second set of plans submitted earlier? Mr. Liebman then said the foundation was dug on December 3, 2014; who made the decision to increase the depth of the foundation by 2 ½ feet without notifying the Chestnut Ridge Building Department. Mr. Liebman and the Board members are concerned that residents will feel they can do construction without updated plans or necessary approvals for changes to the plans.

Mr. Liebman said we as a Zoning Board are concerned when these kinds of things transpire and we are not granting a variance until the ZBA speaks with all parties including the architect.

Mr. Liebman requested Mr. Hinneman come forward for some questions.

Mr. Liebman asked were you responsible for all aspect of the construction?

Mr. Hinneman answered yes.

Mr. Liebman said on the original plan of August 2014 we see a 6'5" cellar; how did it come to pass that from the time of the original plan to when you started work in November 2014 the foundation was dug deeper to accommodate a 9 foot ceiling height.

Mr. Hinneman said he was told to dig 2 ½ feet deeper in consultation with Mr. Schron and the architect.

Mr. Liebman said the original plan was submitted on August 15, 2014. The revised architectural drawings were dated November 28, 2014 and these plans were not submitted to the Chestnut Ridge Building Department. The Building Inspector was only shown the original plan which called for a crawl space.

Mr. Sevastian asked at the time the foundation was dug to a depth greater than the approved 6'5" ceiling, do you know if there were drawings on file with the Building Department reflecting that or were they provided later.

Mr. Hinneman answered he did not know.

Mr. Liebman then asked Mr. Hinneman if he still had the original plans but dug deeper because of conversations with Mr. Schron and the architect, and did you ever question the fact that there might be a need for a variance?

Mr. Hinneman said no.

Mr. Liebman then called Mr. Schron forward.

Mr. Liebman said we now know the revised plans were made up on November 28, 2014. There must have been a discussion with the architect about going in a different direction for the house by creating a full basement.

Mr. Sevastian asked if there came a point in time when you and the architect discussed making this a full basement instead of a crawl space.

Mr. Schron said it is possible but he doesn't remember.

Mr. Liebman asked Mr. Schron if he approved the November 28, 2014 plans.

Mr. Schron said he must have approved them.

Mr. Emanuel said you're asking him if he knew there was an increase in the FAR at that time.

Mr. Sevastian said let's rephrase the question. You knew in the original plans there was an unfinished basement. At some point you knew the basement was going to be finished.

Mr. Schron said we wanted a finished basement.

Mr. Liebman asked if at any time in the planning stages the architect suggested you might need a variance because the FAR was being substantially increased.

Mr. Schron said it is possible.

Mr. Liebman then said the Board is trying to establish the facts and the Village of Chestnut Ridge wants to find out exactly what occurred. Mr. Liebman said an original plan was filed in the Chestnut Ridge Building Department and then a deeper foundation was dug without approval from the Building Department for this change.

Mr. Emanuel said we cannot tell you why the new plans were not submitted.

Mrs. Schron addressed Mr. Liebman and the Board members and said neither she nor Mr. Schron realized there was an issue.

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

Mr. Liebman then asked if anyone from the public wished to speak.

Lenore & Norman Schlissel of 10 Swallow Avenue, Chestnut Ridge; Elwood Lewis of 4 Arthur's Way, Chestnut Ridge; Pierre Germain of 5 Swallow Avenue, Chestnut Ridge; Paul Tadeushuk of 5 Helper Court, Chestnut Ridge; Frank Davis of 4 Helper Court, Chestnut Ridge; Menachem Orzel of 23 Eagle Street, Chestnut Ridge; Yissecher Sussman of 23 Ann Blvd., Chestnut Ridge spoke to Mr. Liebman and the Board members.

The following concerns of the public were discussed: assurance that this is a single family home, safety concerning egress from the basement, sustaining the Chestnut Ridge community as it was when

established, future impact on the neighborhood if this becomes a neighborhood gathering, the architect not being present this evening and the appearance of the house within the neighborhood.

No one else from the public wished to speak.

Mr. Emanuel said that the architect will be present at the March 29, 2016 meeting unless there is a conflict in his schedule or some other emergency. Mr. Emanuel reiterated there is nothing on the revised plan that indicates the house will be used by more than one family.

Mr. Liebman said he will ask the Building Inspectors to attend the March 29, 2016 meeting.

Crystal Anthony made a motion seconded by Duane Penister to adjourn the public hearing until March 29, 2016. The following vote was taken: Stephen Liebman-yes, Crystal Anthony-yes, Duane Penister-yes, Susan Silverman-yes, Stanley Waldbaum-yes, David Murdock-yes, Ally Thorne-yes.

Stanley Waldbaum made a motion seconded by Crystal Anthony to approve the December 29, 2015 minutes. The following vote was taken: Stephen Liebman-yes, Stanley Waldbaum-yes, Crystal Anthony-yes, Susan Silverman-yes, David Murdock. Duane Penister and Ally Thorne abstained.

David Murdock made a motion seconded by Crystal Anthony to approve the January 26, 2016 minutes. The following vote was taken: Stephen Liebman-yes, David Murdock-yes, Crystal Anthony-yes, Duane Penister-yes, Susan Silverman-yes, Stanley Waldbaum-yes, Ally Thorne-yes.

Ally Thorne made a motion seconded by David Murdock to adjourn the meeting. The following vote was taken: Stephen Liebman-yes, Ally Thorne-yes, David Murdock-yes, Crystal Anthony-yes, Duane Penister-yes, Susan Silverman-yes, Stanley Waldbaum-yes.