

Village of Chestnut Ridge  
Zoning Board of Appeals  
February 12, 2018

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

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

Absent: Cheryl Sluys-Recording Secretary

The meeting was held at the Chestnut Ridge Middle School auditorium, 892 Chestnut Ridge Road.

Chairman Liebman opened meeting at 7:00 P.M. The Board entered Executive Session as noted on the Agenda by a unanimous vote.

At 7:30 P.M. the Board moved and adopted a motion by unanimous vote to exit Executive Session and start the regular meeting.

Mr. Liebman welcomed everyone and requested they complete the sign in sheet if they wish to address the Board. Mr. Liebman then advised that Item 2 on the agenda has been adjourned until March 19, 2018.

1. **10 Pine Knoll Court – Public Hearing to consider the application of 10 Pine Knoll Court (Applicant Hilda Kogut).** 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: 67.08-1-1**

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

Mr. Mogel referred to the Executive Session and asked its purpose.

Mr. Sevastian said the purpose was for the Board to get legal advice from their attorney with respect to the application before the Board and to discuss legal advice from their attorney concerning the Zoning Board resolution on the prior application before the Board.

Mr. Mogel wants the Board to note his objection on the record.

Mr. Liebman said so noted.

Mr. Mogel said Ms. Kogut lives within 500 feet of the subject property and she has been aggrieved by the August 1, 2017 decision of the Chestnut Ridge Building Inspector (BI) to grant a C/O. Mr. Mogel then said Abraham Neuman, owner of 10 Pine Knoll Court, submitted an application for a building permit on April 4, 2017. A building permit was granted on April 7, 2017. Mr. Mogel said this application was predicated on a lie. It was never meant to be for renovations, rather a conversion to a two family house.

No real changes were made to the exterior; all changes were made to the interior. Mr. Mogel said two family houses are not permitted in the R-35 zone, however, an August 9<sup>th</sup> inspection of the property by the BI resulted in issuance of a C/O on August 10, 2017. Mr. Mogel distributed 3 pages of the Table of General Use Requirements – Part I: Residential Districts for the Village of Chestnut Ridge to Mr. Liebman and the Board members. Mr. Mogel discussed the highlighted paragraphs and read aloud the Uses Permitted by Right in the R-35 zone. Mr. Mogel then said latches could possibly apply.

Mr. Sevastian said the drawings submitted with the building permit application do not demonstrate an objective intent to convert to a two family house. The submitted drawings do not demonstrate the application was predicated on a lie.

Mr. Mogel said one week after the C/O approval, an inspection was done by Everette Bierker, Code Enforcement Officer (CEO). Mr. Mogel referred to Exhibit 8, a copy of the Violation Notice with a description of the violations.

Mr. Liebman reviewed the chronology of events for the public: final inspection August 9, 2017, C/O issued on August 10, 2017. The CEO filed his report on August 16<sup>th</sup> noting unapproved changes to convert from a one family to a two family house and the need for an electrical inspection.

Mr. Mogel questioned how a C/O could be issued on August 10<sup>th</sup> based upon an August 9<sup>th</sup> inspection by the BI with everything that was missed. The alterations made were visible deviations from the submitted plans. Mr. Mogel then said there are a couple of possibilities:

1. The BI's inspection was conducted in an incompetent manner or he missed items because he only looked outside, or
2. The BI never inspected the property on August 9, 2017.

Mr. Mogel said the CEO went out after receiving a complaint from a neighbor. Mr. Mogel then said in response to a FOIL request the BI sent a follow-up letter noting all violations were corrected. This is not clear from the file. There is no proof that all the required work was done.

Mr. Liebman asked Mr. Mogel if he had a document to that effect.

Mr. Mogel said there have been emails back and forth, the deadline came and went and he has not seen anything pursuant to a FOIL request that everything has been repaired. Mr. Mogel then presented a series of four photographs to Mr. Liebman and the Board members showing New York and New Jersey plates on cars in the driveway.

Mr. Liebman asked if the driveway had been enlarged. Mr. Liebman also requested members of the audience not call out questions.

Mr. Mogel said this is a game of cat and mouse. If you don't see me we can keep doing it and don't have to go before the ZBA. A lot of the neighbors feel they deserve an explanation. The Village has a BI but there are serious concerns: what kind of inspection was done, was it done, were documents falsified and put in the Village file?

Mr. Sevastian said this is an appeal to revoke the C/O. It is not simply a code enforcement matter. The CEO went out and cited the property. The BI said do X,Y and Z or we will go to court and revoke the C/O. The C/O was never revoked.

Mr. Mogel said there are a couple of interesting things to point out:

1. An air conditioning unit in the garage – unusual.
2. Laminated floors in the garage – extremely unusual.

Mr. Mogel continued this is an illegally converted one family house. Mr. Mogel asks the ZBA to take a brave stand. We need an explanation.

Mr. Liebman asked for questions or comments from the Board members.

Ms. Silverman asked the date the submitted photographs were taken.

Ms. Kogut came forward and affirmed to tell the truth. On August 16, 2017 she and Harold Sherman of 8 Pine Knoll Court went to Village Hall and were completing a FOIL request when Mr. Gliniecki, BI, called her a rabble-rouser. Ms. Kogut said the construction at 10 Pine Knoll Court began on weekends. Vehicles without NYS inspection stickers had something slapped on the side of the vehicle to make it legal, however, it was apparent something was not appropriate. Ms. Kogut then said on August 10<sup>th</sup> the BI walked around the house, spoke at the front door and walked away. By the weekend (August 12<sup>th</sup> or August 13<sup>th</sup>) the garage was being deconstructed. All material from the original garage was in a trash pile on the side of the house. Ms. Kogut filed a FOIL request on August 16<sup>th</sup>. On August 18<sup>th</sup> Ms. Kogut went to the village and met with Mr. Gliniecki who said he was aware of problems and was sending a letter concerning more renovations than the building permit suggested.

Mr. Sevastian asked if Ms.Kogut witnessed Mr. Gliniecki at the site on August 10, 2017.

Ms. Kogut replied yes and said on the weekend (Friday afternoon and Sunday) after Mr. Gliniecki's visit the garage was deconstructed. On August 16, 2017 the CEO visited based on my complaint. Ms. Kogut said even as the C/O was issued there were coils of wire around the house. Additionally, on August 16<sup>th</sup>, Mr. Sherman asked Mr. Gliniecki about the inspection. On August 18, 2017 Ms. Kogut was typing up a letter to the village.

Mr. Liebman said the August 18<sup>th</sup> letter was received at Village Hall on August 23, 2017.

Ms. Kogut said over Labor Day tenants moved in through an entrance at the back of the house. The tenants never use the front door. Grocery deliveries are made at the back door. Only the owners use the front door. There are two New York and two New Jersey cars parked on the driveway with an additional area for more cars to park. Ms. Kogut said the New Jersey plates belong to the tenants. Ms. Kogut then said a telephone bill was delivered to her home in error. Thinking it was her mail she opened it and then found the bill was addressed to Kayla Eigner, 10 Pine Knoll Court, Floor 1.

Mr. Sevastian asked if the phone bill is in the appeal.

Ms. Kogut replied no.

Ms. Silverman asked the date of the telephone bill.

Ms. Kogut didn't have the date but said she taped the bill up and put it in their mailbox. Ms. Kogut said the tenants are still living there which she believes is a violation of the Building Code.

Mr. Grossman asked if anything was filed about the driveway expansion.

Mr. Sevastian asked if the large amount of debris for pickup after the garage deconstruction was there before Mr. Bierker, CEO, made a site visit. Mr. Sevastian said he is trying to get the date sequence in order.

Mr. Mogel showed one photograph of the debris to Mr. Liebman and the Board members.

Mr. Sevastian said in the earlier narrative you said the BI went inside on August 10<sup>th</sup> and turned a blind eye. Ms. Kogut said the BI did not enter the house on August 10<sup>th</sup>. Mr. Sevastian said another possibility is the work was done after the final inspection for the CO.

Mr. Mogel said he guesses that is possible.

Mr. Liebman asked the date of the debris photograph.

Mr. Mogel said Monday, August 14, 2017.

Mr. Manning said the garage door in the photo has been replaced with double doors.

Mr. Mogel said that's part of the complaint. On August 9<sup>th</sup> the BI could have seen the new doors.

Mr. Liebman asked what you would see if you visited now.

Mr. Mogel said ask the residents.

Mr. Liebman asked if the Board members had questions for Mr. Mogel or Ms. Kogut.

Ms. Silverman said replacement of the rolling garage door was not required; the threshold was not to be driven over. Ms. Silverman then asked if the width of the French doors is legal for a car to drive through.

Mr. Mogel said he doesn't know.

Mr. Liebman opened the meeting to the public and asked that they shed light on what is happening at 10 Pine Knoll Court.

Wentworth Small of 12 Pine Knoll Court affirmed to tell the truth and said a two family house changes the nature of the neighborhood. It could become a tenement very quickly.

Lee March Grayson of 52 Wilshire Drive affirmed to tell the truth and said construction is occurring on evenings and Sunday. You call the village and nothing happens. Mr. Grayson does not embrace the

philosophy of build now, forgive later. If applicant lies on the application the changes should be restored to the original condition. There are safety and probably fire hazards. Mr. Grayson asks the Zoning Board to grant applicant's request to restore the house to a single family residence.

Ms. Kogut said she really wants to speak to the condition now. There are four cars in the driveway. Deliveries are divided between the front and back doors. Ms. Kogut said this is a precedent setting issue happening all over the village. We cannot let it happen. It is illegal; take action and rescind the C/O.

Mr. Liebman said we commend your diligence and asked if, after observing furniture, new cars, and people using the back entrance, did you go to the village?

Ms. Kogut said she kept a record of everything she observed but because of her frequent trips and complaints to the village her information isn't accepted too well.

Ms. Silverman asked when you (Ms. Kogut) say this is happening in other parts of the village are you saying renovation work is being done without a building permit.

Ms. Kogut replied yes.

Ms. Silverman then asked are you also saying a building permit was filed without the second unit included.

Ms. Kogut said we have a reactive Building Department. Diligent inspections should be done.

Ms. Silverman asked the Village Attorney if a BI can enter a private residence uninvited.

Mr. Sevastian said the short answer is no but if complaints to the Building Department are received concerning illegal occupancy or work without a permit the CEO can visit. If the CEO is denied access and can supply enough information, the CEO can get an administrative warrant from a judge allowing a visit.

Mr. Mogel said the April 7, 2017 building permit allowed a Passover kitchen. The question is when does the work become suspicious. How do we know it is a two family house. Ms. Kogut sees separate entrances, separate garbage, separate package delivery and separate cars.

Mr. Sevastian asked if all the observations were brought to the Building Department.

Mr. Mogel said Ms. Kogut filed an appeal. When you make many complaints they don't always listen.

Ms. Kogut then said Yitzok Altman of 22 Hillside Drive in Airmont came to her home to suggest a mediator to possibly resolve what is going on across the street. Ms. Kogut said Mr. Gliniecki told him to contact me. This made me furious and I called the Mayor who said Mr. Gliniecki speaks to a lot of people.

Ed Sheridan of 46 Pascack Road affirmed to tell the truth and said once again we're talking about a BI who isn't doing his job.

Carol Jacobs of 55 Spring Hill Terrace affirmed to tell the truth and said when this first started with

3 Spring Hill Terrace violations were reported but nothing happened. This has a ripple effect; it's going on throughout the community. There are violations. This is a converted garage. The windows are frosted over; someone lives there. The renovated basement which was supposed to be a meeting hall now has people living there which is a terrible safety hazard. There are similar violations in this community.

Mr. Liebman said he appreciates the community feedback but some things are best said in front of the trustees. Mr. Liebman requested comments concern this particular case.

Ms. Jacobs said knowing what is going on must have an impact.

Mr. Liebman said that has nothing to do with this particular matter.

Ms. Jacobs continued if the garage was converted to a home for another family why was a C/O issued for a house without a garage. That's a violation.

Baruch Feder of 33 Beckett Court affirmed to tell the truth and said it is interesting there are photographs.

Mr. Sevastian said if observations are made of people going in and out of the house, if a family can live in the house, it's evidence. The weight or how good is up to the ZBA.

Mr. Feder said he sees houses with cars all over the property. Hypothetically you're asking about family. Are you violating the law if a mother-in-law lives there? Check if this is one family. Figure it out.

Ms. Silverman said violations were found at this location.

Mr. Feder said he is a woodwind player and uses his garage for playing. In the summer he has an AC in the garage window. Facts need to be clarified.

Mr. Liebman requested members of the public who wish to speak give a factual presentation pertaining to 10 Pine Knoll Court.

Sabrina Martin of 2 Ronwood Road affirmed to tell the truth and asked if she was allowed to ask questions. Around August 16<sup>th</sup> the CEO visited and stated this was a two family house in violation of the Chestnut Ridge Zoning Code. Afterward the BI sent a letter advising it is to be returned to a one family house.

Mr. Liebman said the letter from the Building Department will be presented.

Ms. Martin said given the fact that the BI's assessment is a cause of concern, the CEO should be sent to double check his work.

Mr. Liebman said the CEO visited because of a complaint.

Ms. Martin said the BI is clearly not capable.

Ms. Kogut said she shouldn't be asked did you follow up. It's not her job.

Mr. Sevastian reviewed the timeline:

August 9, 2017 – final inspection by BI

August 10, 2017 – C/O issued

Work over the weekend was observed and reported by Hilda Kogut.

August 16, 2017 – CEO reported back to BI after his inspection.

Mr. Sevastian said if you're asking if the CEO visited after the BI issued his letter, the answer is no.

Ms. Martin said you're putting pressure to follow up on a member of the community. She is not satisfied with the ZBA answers. Ms. Martin doesn't know why the BI issued a C/O; is he incompetent, turned a blind eye or didn't visit the site. Ms. Martin questions the BI's capacity to do his job. Why wasn't the CEO sent out to re-evaluate to determine if the structure was converted back to a one family residence?

Mr. Sevastian said you are clearly pointing out this is a code enforcement issue.

Gloria Steinberg of 5 Cannan Road affirmed to tell the truth and asked if family visits from Israel for Passover and then leaves, is it a one family house again. A two family house conversion was discussed.

Avraham Rosskamm of 18 Samuel Road affirmed to tell the truth and asked the Board if Chestnut Ridge is part of the USA. Mr. Rosskamm continued it seems in this case the rights afforded by the Constitution are being violated.

Mr. Sevastian said the ZBA is an appellate body; it sits in a quasi-judicial position. We accept evidence and then the Board weighs the evidence and makes quasi judicial decisions. People do have a right to use their property.

Mr. Rosskamm asked about a speedy trial.

Mr. Sevastian said this is not a criminal case. It is an appeal of the issuance of a C/O. Conviction implies someone was charged with a crime. It is an enforcement issue. A violation is written and an appearance is made before the court. This is an administrative determination by this Board. There are no criminal consequences.

Mr. Liebman said we want to strictly stick to the facts germane to this public hearing. People who live in Chestnut Ridge and make observations should report to the CEO. We rely on people to say something is wrong here.

Mr. Sevastian said there is no statutory prohibition to observation or taking photos.

Mr. Rosskamm asked how many people in Chestnut Ridge use their garage to park cars.

There was an outburst from the audience.

Mr. Sevastian said we will listen to everyone whether they agree or disagree.

Mr. Liebman said a two car garage is required in Chestnut Ridge. Two family homes are not allowed in this zone. We appreciate your philosophies but they are not germane.

Mr. Rosskamm then said it is interesting that somehow you found and opened mail addressed to 10 Pine Knoll Court.

Mr. Liebman said that accusation doesn't belong here; please take your seat.

Ms. Kogut said the accusation suggests a retired FBI agent violated Federal law.

Mr. Sevastian said this is a Zoning Board hearing. The Chairman has given great leeway to speak.

Mr. Mogel said treat this Board with absolute respect. We are talking about an illegal conversion from a one family to a two family house and observations made by the CEO.

Tony Averso of 40 Wilshire Drive asked who the BI answers to.

Mr. Sevastian said we are here for a single application. The BI is charged under NYS law. He issues certificates of occupancy and building permits. He does his work all day long. There is no process to have someone above review his work. The job is his responsibility. We don't want lawyers, neighbors, etc. doing his job. Under NYS law he makes the determinations.

John Guadagnino of 5 Continental Court affirmed to tell the truth and suggested listening to the common thread. Everything has to do with the BI. There is a problem with the process. Someone has to look at the BI and see that he's doing his job properly.

Magali Dupuy of 49 Spring Hill Terrace affirmed to tell the truth and said different addresses clearly say this is a two family house.

Mr. Liebman submitted Russell Gliniecki's letter into evidence.

Ms. Silverman read the December 18, 2017 email from Russell Gliniecki to the ZBA into the record. This states by all reasonable and practical standards this is a one family house.

Ms. Dupuy asked if the ZBA members could make a site visit to 10 Pine Knoll Court.

Mr. Sevastian said that would be unusual because the owner is not part of the proceeding. If the present evidence suggests doing so the owner may consent to a site visit. No bad intent is to be taken if access is not allowed.

Ms. Dupuy said if there was a site visit it would put the issue to rest.

Ms. Kogut said she saw the pictures and email of December 18<sup>th</sup>. The pictures told me nothing. Ms. Kogut is not satisfied with those pictures or email.

Mr. Liebman said it is best if we adjourn to March 19, 2018 to get more information. A letter can be sent to the homeowners requesting a site visit; we can ask the BI to visit with us as well.



Ed Manning made a motion seconded by Duane Penister to adjourn the public hearing until March 19<sup>th</sup>. The following vote was taken: Stephen Liebman-yes, Ed Manning-yes, Duane Penister-yes, Susan Silverman-yes, Michael Grossman-yes, Ally Thorne-yes, Stanley Waldbaum-yes.

Mr. Liebman thanked everyone for attending.

3. **MINUTES** – Approve December 18, 2017 and January 29, 2018 Meeting Minutes.

Approval of meeting minutes was postponed until March 19, 2018.

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