

APPROVED

Village of Chestnut Ridge
Zoning Board of Appeals
March 19, 2018

Present: Stephen Liebman-Chairman, Susan Silverman-Deputy Chairperson, Duane Penister, Ed Manning, Michael Grossman, Ally Thorne, Stanley Waldbaum, 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, Chestnut Ridge, NY 10977.

Mr. Liebman called the meeting to order at 7:30 P.M. Mr. Liebman welcomed everyone and requested comments be restricted to the item on the agenda.

- 1. 10 Pine Knoll Court – Continuation of 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 said Abraham Neuman, owner of 10 Pine Knoll Court, applied for a building permit on April 4, 2017. The building permit was for renovations and a Passover kitchen and was granted on April 7, 2017. The Building Inspector did a final inspection on August 9th and issued a C/O on August 10, 2017. A site visit was made by the Code Enforcement Officer on August 16th based upon a neighbor's complaint. An appeal was filed on August 30, 2017.

Mr. Sevastian said you left out two important dates. On February 12, 2018 applicant testified she observed the Building Inspector on the premises on August 10, 2017 and by that weekend the garage was being deconstructed.

Mr. Mogel said asking Ms. Kogut to clarify her testimony is adversarial.

Mr. Sevastian said you summarized the testimony. The Board is entitled to know what other testimony was given.

Mr. Mogel said to Mr. Sevastian it is your job to defend the homeowner or to provide good legal advice to the Board.

Mr. Sevastian said we're trying to see that the Board and the public get a fair representation of the status of the application. The public hearing was held open because the ZBA wants to ask questions of the Building Inspector.

Mr. Mogel said you take sworn testimony from the Building Inspector and I can't ask him questions. This puts me in a position where I can't effectively represent my client.

Mr. Sevastian said he doesn't believe Mr. Mogel can cross examine the Building Inspector.

In response to a disruption from the audience Mr. Liebman said we have had fantastic meetings conducted in a respectful manner. This is not a concert hall. Booing and calling out is not appropriate. Let us do our job.

Mr. Sevastian said this Board has to act by resolution. If they do come to a consensus they direct the attorney to write a resolution which is then voted upon.

Mr. Mogel said he will not be preached to or shouted down.

Mr. Liebman said Russell Gliniecki, Building Inspector (BI) is present this evening for questions concerning the C/O.

Mr. Gliniecki said there were plans to remodel some rooms and add a Passover kitchen downstairs.

Mr. Liebman- Were there three sets of plans?

Mr. Gliniecki said he doesn't remember but there are always revisions. On the original set of plans the architect wanted columns added. This seemed redundant as the support was already there.

Mr. Liebman – Was the final inspection on August 9, 2017?

Mr. Gliniecki – Yes.

Mr. Liebman – Mr. Neuman is the owner/contractor. Describe what you observed.

Mr. Gliniecki – I went through the rooms looking for completion. Mr. Gliniecki said he puts himself in the place of the homeowner from the point of safety and the use of licensed plumbers and licensed electricians. A C/O documents the renovation is done and complied with the plans. Mr. Gliniecki made sure there was access to the house from the garage and that there were no barricades from the first to the second floor. The Passover kitchen was covered over; not in use. The house is safe. An electrical inspection was completed. Mr. Gliniecki said based on my inspection and reports the house is safe and compliant.

Mr. Liebman- Was the C/O granted on August 10, 2017.

Mr. Gliniecki- Yes.

Mr. Liebman – Have you revisited the site?

Mr. Gliniecki – I had an inspection on the street and stopped by 10 Pine Knoll Court on August 10TH to see how things were going as he tries to stay in touch. If he has questions he will stop and ask. On August 10th he saw Robert Murphy, Architect.

Mr. Liebman- Witnesses came before the ZBA and said deconstruction was done after the C/O was issued.

Mr. Gliniecki- Hilda Kogut came to the Building Department with a complaint on August 16th. Everette Bierker, Code Enforcement Officer, made a visit to 10 Pine Knoll Court on August 17, 2017 and wrote up a violation.

Mr. Manning – What was in the violation?

Mr. Gliniecki – An added closet in the garage area interfered with the ability to park the car. This was torn down. Mr. Gliniecki said there may have been clean-up work on the site or other work that didn't need a building permit.

Mr. Liebman- Was there contact with Mr. Neuman before the letter was sent out?

Mr. Gliniecki – I spoke to Mr. Neuman on August 17th about a list of things to work out: 1)an inaccurate as- built drawing, 2) a wall separating the garage must be removed, 3) stressed the house must remain a one family residence and said an affidavit may have to be signed, 4) receipt of architect's letter explaining removal of basement footings and columns, 5) affidavit of actual cost of project, 6) submission of third party electrical inspection (UL), 7) ramp into garage needed to be screwed down.

Mr. Liebman – Was this conversation followed up with a letter on August 23rd. Mr. Liebman then asked about the garage wall.

Mr. Gliniecki – The wall separated the garage into left and right halves and then said the final drawings show what is there.

Mr. Liebman – The last plans were submitted on October 24, 2017 and do not show a wall.

Mr. Gliniecki – The wall was not a code problem.

Mr. Liebman – What about the letter from the architect concerning the columns.

Mr. Gliniecki – A signed, sealed letter from the architect was presented and read aloud for the Board members.

Mr. Liebman – Was the closet removed?

Mr. Gliniecki – Yes.

Mr. Liebman – What about the problem with the threshold plate?

Mr. Gliniecki – Removal of the threshold plate was a code interpretation. It was secured in place.

Mr. Liebman- There should be one stove and one sink in the Passover kitchen.

Mr. Gliniecki – The problem in the kitchen was lack of a hood over the range.

Mr. Liebman – He doesn't see that.

Mr. Gliniecki- The minimum requirement is a place to cook, one sink and countertop to prepare foods. The Passover kitchen is covered with resin paper.

Mr. Liebman- Why did you visit after the final inspection?

Mr. Gliniecki – I went back because of allegations it was a two family house. Mr. Neuman let him in. There was no indication of anything more than a one family residence.

Mr. Liebman – All the construction was not on approved plans. Must that construction be removed?

Mr. Gliniecki – That is a general statement to assure action is being taken.

Mr. Liebman – There is 30 days from the date of the letter to verify compliance. What is the process?

Mr. Gliniecki – He has made telephone calls to Mr. Neuman and is confident the problems are being addressed.

Mr. Liebman – What date do you go back in to verify the problems have been resolved?

Mr. Gliniecki – Referred to the December 18, 2017 email he sent to the ZBA which noted free access to all parts of the house and no dead bolts or locks on any rooms in the lower level. There was a car parked in the garage. The Passover kitchen was covered. There was only one gas and one electric meter for the house. By all reasonable and practical standards this is a one family residence.

Mr. Liebman – Again questioned the process.

Mr. Gliniecki – It is fluid and dynamic.

Mr. Liebman – Are there any other forms to be submitted to the homeowner?

Mr. Gliniecki – No. He has observed the work done; the C/O was not revoked. Everything is being taken care of.

Mr. Liebman – What about the electrical inspection?

Mr. Gliniecki – There is no affidavit for the second kitchen. That is beyond a reasonable request. Mr. Gliniecki added the C/O covers the fact that it is and is to be used as a one family residence.

Mr. Liebman – What about the French doors on the garage?

Mr. Gliniecki – There is no code restriction. It is a personalized decision.

Mr. Grossman asked the benefit of French doors.

Mr. Gliniecki- They are better insulated, have a higher "R" value and are more secure.

Mr. Liebman – After the December 18th home visit did you see anything to indicate a two family residence.

Mr. Gliniecki – I look for multiple meters, blockage between floors and dead bolts in the bedrooms. None of these were present.

Mr. Liebman – Was the driveway extended?

Mr. Mogel said it was in November 2017 but he doesn't remember the date and then said ask Ms. Kogut. Mr. Mogel then asked if Mr. Gliniecki was sworn in.

Mr. Sevastian said he is here to answer questions of the ZBA. Applicant has counsel. The public can speak.

Mr. Manning asked about the wall in the garage.

Mr. Gliniecki - There is a refrigerator/freezer in the garage but a car can be parked there. Mr. Gliniecki then said air conditioning in the garage is not prohibited by code.

Mr. Liebman - In a situation like this, when a neighbor sees something, what is the process?

Mr. Gliniecki - We look for multiple meters going on the house, people living in the house that are not part of the family, etc. If the homeowner denies access we have to leave. If there are enough problems we can apply for a search warrant and go to the house with the police. Again, we look for multiple door bells, garbage cans labeled A, B, C, a lot of satellite dishes and multiple meters. If neighborhood residents observe any of these indications, they should call us.

Mr. Sevastian said for education of the public, a letter was sent to Mr. Neuman on February 13, 2018 to afford him an opportunity to appear before the ZBA to present testimony and/or evidence relative to the project he undertook.

Joseph Churgin, Esq. (attorney for Mr. Neuman) said Mr. & Mrs. Neuman are present this evening. Mr. Churgin came forward and presented Mr. Liebman with an anonymous letter from a neighbor handed to his client before tonight's meeting. Mr. Churgin said this neighborhood has changed tremendously and he realizes people don't like that it is changing; however, people cannot be prevented from moving into their house if they can afford to live there. Mr. Churgin believes that is what applicant is asking the ZBA to do. Mr. Churgin then said the NYS Fire and Building Code relates to safety. There is no evidence this house is not safe or habitable. The BI does his job. There is no evidence it is anything but a single family house.

Mr. Liebman said allegations were made after the C/O was issued.

Mr. Churgin said this often happens in life. Complaints do not work after a C/O is issued.

Mr. Liebman asked if the Board members had any questions.

Mr. Manning asked what a 1 to 4 rider is.

Mr. Sevastian said a 1 to 4 family rider is attached to mortgages by banks so rental income can be collected by the bank in case of default.

Ms. Silverman addressed Mr. Mogel and said based upon this evening's testimony, what is the evidence this is a two family house.

Mr. Mogel replied eye witness testimony. Mr. Mogel referenced the amended permit of June 8th and the second amended permit of July 7, 2018 and said during a one month period two separate laundry rooms were installed along with doubling of the garbage cans.

Mr. Liebman asked Mr. Gliniecki if there are two laundry rooms.

Mr. Gliniecki replied could be. Just because there are two laundry rooms doesn't mean it is a two family house.

Mr. Sevastian said don't editorialize.

Mr. Mogel referenced the mail delivery, four separate cars (2 with NY plates and 2 with NJ plates), the driveway expansion and air conditioning in the garage. Mr. Mogel then read the August 23rd Building Inspector's letter and said the cumulative effects of the changes indicates a conversion from one family to a two family house. Mr. Mogel also noted the August 10th and December 29th site visits by the Building Inspector as well as an October 10th email from the Building Inspector and said the complaint was lodged on August 30, 2017. The only way we know for sure is if the second family says yes, we're living there. Mr. Mogel then said who is in the house is not the issue. This is not about discrimination and racism. Two families in a one family house are not permitted in the zone. Mr. Mogel said this is a legitimate grievance.

Mr. Sevastian asked when the additional work was done converting the house from one family to two family. The C/O was issued on August 10, 2017. The Code Enforcement Officer visited on August 16th. If there was a determination of a conversion, there is 30 days to reverse the conversion or the C/O will be revoked.

Mr. Mogel reviewed points from the August 23rd letter and said once again we're looking at all the pieces of the puzzle.

Ms. Silverman asked according to you, [Mr. Mogel], what guarantees a one family house.

Mr. Mogel said it's not my job to be the Building Inspector of Chestnut Ridge. The question before the Board is were all codes and laws complied with when the C/O was issued. The application was for renovations and a Passover kitchen. Given the C/O discrepancies, drawings that don't apply, the second laundry room and separate entrances the Building Inspector should have made a proper determination.

Mr. Sevastian reviewed the timeline and Ms. Kogut's testimony: 8/10 visit by Building Inspector,

8/12 or 8/13 construction in the house, 8/16 Code Enforcement Officer visit. Everything occurred after the C/O was issued unless someone is not telling the truth.

Mr. Mogel said there could be a lot of not noticing or a lot of renovations. We are obligated to lay out all possibilities. There is clearly a conflict of facts. If we knew exactly what happened we wouldn't need a ZBA.

Mr. Goldsmith asked if a stove hood was required by code.

Mr. Gliniecki said the code was developed for safety. A hood is for flash-ups and fire.

Mr. Goldsmith asked if a stove hood was required on August 9th when the inspection was done.

Mr. Gliniecki said he wanted to determine it was a requirement by code before Mr. Neuman spent money.

Mr. Goldsmith questioned what was going on downstairs.

Mr. Gliniecki referenced the photographs he submitted and said he only took necessary photos.

Mr. Goldsmith asked if the garage flooring on August 9th was the same as at a later date.

Mr. Gliniecki replied no.

Mr. Manning asked about the garage ramp.

Mr. Gliniecki said it was a loose threshold piece that didn't require great concern.

Mr. Sevastian asked if the C/O would have been held up because of the height difference at the threshold.

Mr. Gliniecki answered no.

Mr. Liebman invited members of the public to speak.

Howard Sherman of 8 Pine Knoll Court affirmed to tell the truth. Mr. Sherman said there are two separate, three person families in the house. Mr. Sherman reiterated many of the observations noted in his February 1, 2018 letter to the ZBA and said the application for a building permit was made with unclean hands. Mr. Sherman then said the plans were done in a deceitful manner. Mr. Sherman discussed with Mr. Liebman and the Board members all the changes he felt were made to the property. Mr. Sherman said he would like Mr. Neuman to contradict everything he has stated.

Tony Averso of 40 Wilshire Drive was reminded he is still under oath. He questioned access from the garage to the house.

Mr. Gliniecki said there are two separate doors.

Mr. Averso asked if the garage doors are fire rated, have safety latches and operate with a key. Mr. Averso then asked why there are two back doors for access if they are not being used for another purpose.

Diana Corbin of 6 Aberdeen Avenue affirmed to tell the truth and related a situation in which a kitchen was installed in part of a garage. This had to be removed because it made a two family house. Have codes changed?

Mr. Sevastian said the code hasn't changed. With a plan and building permit a Passover kitchen can be installed.

Mr. Manning said on August 9th everything passed and a C/O was issued. Why was the threshold a problem at a later date?

Mr. Gliniecki said he probably didn't notice a problem with the threshold on August 9th.

Hilda Kogut of 20 Pine Knoll Court was reminded she is still under oath. Ms. Kogut said she FOILED the "as built" plan and the July 7th amendment to the plan but these were never seen. Ms. Kogut said she lives in a single family neighborhood. The Neuman house is a two family house. Ms. Kogut watched when they moved in, sees different exits being used, two families putting trash out, etc. We all see it; it is wrong and sets a precedent.

Mr. Mogel said as a point of clarification, is the last plan in the file?

Mr. Gliniecki said the file with him shows that is the last one.

Mr. Churgin said this is a single family residence and read aloud the Chestnut Ridge Zoning Code definition of a single family residence.

Mr. Manning asked Mr. Churgin to re-read part of the Chestnut Ridge Zoning Code, i.e., the definition of a dwelling unit.

Mr. Manning then again asked Mr. Churgin if two families were living on the premises.

Mr. Churgin said I won't say that's inaccurate.

No one else from the public wished to speak.

Ed Manning made a motion seconded by Michael Grossman to close the public hearing. 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.

Mr. Sevastian said the decision on the application is made by resolution.

Ms. Silverman said her concern is if the C/O is voided by the ZBA what is the remedy to make it a one family house. There is only one meter, no multiple mailboxes or multiple doorbells. What would it look like as compared with what it looks like now?

Mr. Sevastian said this has to be deliberated among the Board members. A consensus has to be reached in 62 days. There has to be time to draft the resolution but a decision could be made at the next meeting.

Mr. Liebman said he hears doubts about which way to go and suggests a motion to hold over the Board's decision.

Mr. Sevastian said the Board can think about it, study the code and deliberate in open meeting. A majority is necessary but the vote does not need to be unanimous.

Susan Silverman made a motion seconded by Ed Manning to hold over the vote until the next ZBA meeting on April 16, 2018. The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Ed Manning-yes, Duane Penister-yes, Stanley Waldbaum-yes, Ally Thorne-yes, Michael Grossman-yes.

2. MINUTES – Approval of the December 18, 2017 and January 29, 2018 meeting minutes was postponed.

3. Other Business

Mr. Sevastian referred to the application of Alister Renwick and said the resolution was edited based on input from the Board members. Additionally, the resolution only deals with the garage.

Susan Silverman made a motion seconded by Michael Grossman to approve the Resolution of the Chestnut Ridge Zoning Board of Appeals (1/29/18) entitled "In the Matter of the Application of Alister Renwick, for a determination of Zoning Board to Impose Bulk Table Requirements on the premises identified on the Town of Ramapo Tax Map as parcel 57.17-2-27, located at 245 Old Nyack Turnpike, Chestnut Ridge, New York 10977, in the PO Zoning District".

The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Michael Grossman-yes, Ally Thorne-yes, Duane Penister-yes, Stanley Waldbaum-yes, Ed Manning-yes.

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, Ally Thorne-yes, Stanley Waldbaum-yes, Ed Manning-yes, Duane Penister-yes.