

Village of Chestnut Ridge
Zoning Board of Appeals
May 21, 2018

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

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

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

1. **10 Pine Knoll Court – Continuation of Public Hearing** on agenda for purpose of accepting any Additional evidence submitted by property owner in response to appellant's submission at April 16, 2018 meeting.

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

Mr. Liebman said at the April 16, 2018 meeting the public hearing was reopened at the request of Mr. Mogel so he might submit new evidence. The public hearing was then closed subject to submissions by the property owner (Abraham Neuman) or their attorney (Joseph Churgin) of any pertinent information. Mr. Churgin submitted an extensive packet to Mr. Liebman and the Board members which has been reviewed. Mr. Liebman then said the Board members will discuss all the evidence before them and agree or disagree.

Mr. Sevastian said as usual the decision is by resolution. The Board has a discussion, determines a basis for the entertainment of a motion and then a resolution is drafted for the Board's adoption or modification if necessary.

Mr. Manning said at the March 19, 2018 meeting he asked Mr. Churgin if two families lived in the house. Mr. Churgin did not deny it. Mr. Manning has no doubt two families do live there but the definition of a family in the Village Code makes it tough to turn things around. What would change if we said no? There is nothing to take down or remove. The only action is to enforce it remains a one family house.

Mr. Liebman said based on the facts before you it is not a two family house structurally.

Mr. Manning said it is two families living in a one family house.

Mr. Grossman said he agrees with Mr. Manning.

Ms. Silverman expressed agreement and said the eye witness testimony was quite strong but what would change. There are not multiple meters, multiple doorbells and no physical barriers within that divide the house into two separate units. Ms. Silverman said it is tough to say void the C/O when the house has not been built as a two family structure.

Ms. Thorne said from the outside there is no evidence this is a two family house.

Mr. Liebman said the information presented to us by Mr. Churgin invalidates the Facebook advertisement. Factually that ad could be 10 Pine Knoll Court or another location. Additionally there is overwhelming evidence that Mr. Neuman works for a company in which he arranges for property rentals. This invalidates what was presented by Mr. Mogel. Mr. Liebman then said per the Chestnut Ridge Zoning Code two families may live together. This is still structurally a one family house; there is not enough proof to show it is a two family house.

Mr. Liebman asked Mr. Sevastian if Mr. Goldsmith is permitted to offer an opinion.

Mr. Sevastian said it has been the practice of this Board to hear from alternates.

Mr. Goldsmith said he is bothered by the use of two separate entrances. If the residents are related, why not all enter together.

Mr. Grossman said it has been pretty much acknowledged there are two families in the house.

Mr. Manning said structurally there is nothing to take away.

Ms. Silverman said there is no law regarding entrance into a house from the garage, the side door or the front door.

Mr. Grossman said we heard testimony from Russell Gliniecki, Building Inspector, that there are no barriers within the house.

Mr. Goldsmith then referenced the Lease Agreement provided by Mr. Churgin and said that is for an apartment, not a house.

Mr. Liebman said that's not up to us here; that leads to other questions. Mr. Liebman then said we have a lot of information, a lot of people swearing this was the house in the advertisement but we don't know what house is actually talked about in the advertisement.

Mr. Goldsmith said it is a new house.

Mr. Liebman said that has no bearing on this. I understand what you are bringing up and the Building Department should be aware.

Mr. Manning said this becomes an enforcement issue. Get the Building Inspector on his game.

Mr. Liebman said in assessing the comments of the Board members he feels they prefer to deny the appeal.

Ed Manning made a motion seconded by Susan Silverman to deny the request to appeal the decision of the Building Department to issue a C/O for 10 Pine Knoll Court. The following vote was taken: Stephen Liebman-yes, Ed Manning-yes, Susan Silverman-yes, Michael Grossman-yes, Duane Penister-yes, Ally Thorne-yes, Stanley Waldbaum-yes.

2. Trailing Ridge – Continuation of Public Hearing to consider the application of Trailing Ridge who is seeking variances from the provisions of Article IV-2, relative to a project to construct a private swimming pool, tennis court, cabana and play area to serve the Trailing Ridge townhouse project in the Borough of Montvale, New Jersey.

Tax designation: 68.13-1-1, Zone: LO

Lot Width of 76.9 ft. (pre-existing) is proposed and 200 feet is required

Side Setback of 30 ft. proposed where 75 ft. is required

Total Side Setback of 69.6 ft. proposed where 150 ft. is required

Side yard of 0 feet proposed South lot side and 10 feet on North side where 30 feet is required

Swimming pool Setback:

(Art. XII Sec. 6.B) 40 ft proposed where 100 ft. is required

Ira Emanuel, Esq. (Attorney for Applicant), Stuart Strow, P.E., of Brooker Engineering and Peter Tiflinsky, Owner/Applicant appeared.

Mr. Liebman gave an overview of the project, a development of luxury townhouses on a piece of property, the majority of which is in NJ. There is a little sliver of property on the Rockland County side. Variances are requested to construct a tennis court, swimming pool, cabana and play area on the Rockland County site. Mr. Liebman then said a GML review letter from the Rockland County Department of Planning was received today which did not give a lot of time for review.

Stuart Strow came forward and was reminded he is still under oath. Mr. Strow said at the April meeting he went through the requested variances (necessary because of the unusual shape of the property) and offered testimony such as the impact on the neighborhood (no impact to community or neighboring property). The project is intended to exclusively serve residents of the townhouse project being constructed in NJ. It will not be open to the public.

Mr. Strow then said he will go through the comments in the Rockland County Highway Department and Rockland County Planning Department letters item by item if Mr. Liebman and the Board likes.

Mr. Liebman said please do so.

Mr. Strow discussed the April 26, 2018 Highway Department letter first:

- 1) We agree. Typically land dedication is done upon site plan approval.
- 2) This is an internal issue between the two properties. We will create an easement for our own purposes; however, we think the Highway Department overstepped their authority in that regard.

Mr. Sevastian asked if there is an easement from the property owner in NJ to access their property in Rockland County.

Mr. Emanuel said we will deal with that in front of the Planning Board.

- 3) Mr. Strow said drainage details are part of our responsibility during site plan approval. We have to address this to get site plan approval.

4) Mr. Strow said this has been done. We received the Rockland County Department of Planning letter today and previously received a letter from the Rockland County Sewer District #1.

5) Mr. Strow said a work permit from the Rockland County Highway Department is always required.

Mr. Strow then reviewed the May 21, 2018 letter from the Rockland County Department of Planning.

1) A work permit will be obtained.

2) We agree with all comments in the April 24, 2018 Rockland County Health Department letter and will take care of them.

Mr. Sevastian asked do you have a problem with any of the conditions in the Rockland County Sewer District #1 letter of January 28, 2018. You will do all of them? That's the question.

Mr. Strow said we have no problem; we will comply with all the conditions.

Mr. Sevastian said typically those things are hashed out in site plan approval.

4) Mr. Emanuel said I'll take this one and then said the County Planning Department is not the Building Inspector of Chestnut Ridge. They do not make a determination of use. This is handled by the Chestnut Ridge Building Department or CDRC and, in fact, was handled by CDRC. Mr. Emanuel read the November 6, 2017 CDRC memo from Paul Baum, Esq. into the record. This is an outdoor recreational facility. The issue has been taken care of. Mr. Emanuel said it is commercial in that it is not personal to any one person. It is part of membership amenities for all residents.

Mr. Grossman asked if residents are automatically enrolled.

Mr. Tiflinsky said it is part of the monthly maintenance fees.

Mr. Sevastian asked what the Board thinks about that. The County comment has to be overridden. Is the Board comfortable with an override that it is a recreational facility as the Planning Board and CDRC have already addressed the issue?

Mr. Grossman asked how values are assessed for tax purposes.

Mr. Emanuel said it is probably classified as a specialty.

Mr. Liebman said that is not germane to the issue.

5) Mr. Strow said the rear yard will be clarified and highlighted on the site plan.

Mr. Emanuel added the narrative describes where it is.

6) Mr. Strow said we are requesting an override of evergreen landscaping as applicant is proposing a solid, 6 foot vinyl fence along the entire northerly property line to match what's being constructed in the development. The fence will provide the screening asked for.

Mr. Sevastian said you still have to deal with the Planning Board on landscaping.

7) Mr. Strow said County Planning will have the opportunity to review the site plan and conditional use permit.

Mr. Liebman asked do you have anything to add.

Mr. Strow replied no, but he will answer questions.

Mr. Manning said in line with what we talked about last month, clarify our task this evening.

Mr. Strow said approval of the requested variances.

Mr. Grossman said if we grant the variances they stay with the land. If at some point the owner of the development wants to sell that piece of property, what happens?

Mr. Sevastian said it could stay as a private club but the bylaws would have to be amended. Variances do run with the land. There could be a re-development of the land.

Mr. Liebman said one possibility of change could be to combine two parcels and do something else. Mr. Liebman doesn't see this as an issue.

Mr. Liebman opened the meeting to the public. No one from the public was present.

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

Mr. Liebman asked the Board members if there were any questions or discussion.

Mr. Manning said he is fine with it. The plans make sense. This is an improvement, something positive for the whole area. He will vote yes.

Ms. Silverman said this will be an asset to the community.

Mr. Waldbaum said this was a good presentation and is a good idea.

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

Mr. Sevastian said the motion will include overriding #4 and #6 in the Rockland County Department of Planning letter. Mr. Sevastian said in regard to #4, CDRC says the use is permitted. It is recreational use,

not personal. In regard to #6, a solid fence is fine. In any case, applicant has to go before the Planning Board.

3. **MINUTES** – Approve Meeting Minutes of March 19, 2018 and April 16, 2018.

Approval of the above meeting minutes was carried over to June 18, 2018.

4. **Other Business**

Mr. Liebman discussed certification courses with the Board members.

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.