

Village of Chestnut Ridge
Zoning Board of Appeals
June 18, 2018

APPROVED

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

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

Absent: Ally Thorne, Michael Grossman, Paul Van Alostne-Alternate

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

Mr. Liebman welcomed everyone and requested those who wish to speak to sign in.

1. **8 Lark Lane-Public Hearing** to consider the application of Mindy Maierovits for variances relative to a project to construct a single-family home at the premises known as 8 Lark Lane, Chestnut Ridge, NY 10977

Tax Designation: 62.08-2-30 in the R-25 Zoning District as follows:

Floor Area Ratio (FAR) of 0.29 where 0.20 is required.

Ira Emanuel, Esq. (Attorney for Applicants), Stanley Mayerfeld, Architect, 18 Bruck Court, Wesley Hills, and Andrew and Mindy Maierovits (40 Witzel Court, Monsey), Applicants appeared.

Mr. Emanuel reviewed his Narrative Summary, revised on June 8, 2018, and said this is an application for a variance from the FAR requirements for a single family house to be built in the R-25 district. This couple has a son in the autistic spectrum who requires intensive occupational therapy for motor and coordination skills and socialization issues. The 2,650 square foot cellar will house equipment to be used in his treatment regimen. Mr. Emanuel said the cellar has the same footprint as the first floor. The second floor is much smaller. Mr. Emanuel then referred Mr. Liebman and the Board members to the February 13, 2018 letter from Tamar Z. Kahane, Psy. D., Licensed Psychologist, and a drawing of the proposed layout of the cellar.

Mr. Mayerfeld affirmed to tell the truth and said the cellar configuration has been in the design process for two years and is based upon the child's therapy program. Mr. Mayerfeld discussed FAR requirements and also noted a preexisting condition of lot width deficiency.

Mr. Sevastian said the lot width requires a variance.

Ms. Silverman said there needs to be consistency in the plans and the drawings need to be clarified.

Mr. Mayerfeld said that will be done. Mr. Mayerfeld then said from the neighbor's perspective there is no difference if the cellar is finished or not finished because it is so far below ground. There is no intention to use the cellar for anything other than the therapy program for a special needs child.

Mr. Maierovits affirmed to tell the truth and said the cellar is not designed for public or communal use. We want a space dedicated to our son's therapy needs. He is challenged in many areas and we have long dreamed of being able to provide daily therapy at home. Mr. Maierovits showed a "to scale" drawing (by Mrs. Maierovits) to Mr. Liebman and the Board members and said this is how we envision the therapy area to look. We require the extra space so our son can grow, thrive and succeed. Therapy outside the home is available but we want to provide daily therapy at home.

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

Mr. Liebman asked who initially met with the Chestnut Ridge Building Inspector.

Mr. Mayerfeld said this project was started a number of years ago. Drawings without a cellar were not part of the initial application. We submitted non-compliant drawings to generate a denial letter from the Building Inspector so we could appear before the ZBA.

Mr. Liebman said there is gravel flooring where the proposed basement is to be. The house presently has a crawl space with a concrete subfloor.

Mr. Sevastian said there is increased FAR legislation circulating that provides an exemption for any below grade space.

Mr. Mayerfeld said if the variance is granted we will break through the concrete for the cellar.

Ms. Silverman said she thought she was driving to a vacant lot at the time of the site visit and was surprised to see a house being constructed.

Mr. Mayerfeld said the drawings were started in 2016, the building permit was issued in 2017 and construction began in December 2017. The architectural footings of the basement were designed to accommodate 9 foot ceilings. Mr. Mayerfeld took a gamble on changes to be made regarding FAR and started construction. If the FAR changes were not approved the lower level would stay empty.

Mr. Liebman stated presently there is a 6 foot 3 inch crawl space.

Mr. Manning asked if making the area smaller to allow for the FAR was ever in the plans.

Mr. Maierovits said it was designed for maximum capacity. We hoped the law would support our plans.

Mr. Liebman noted that except for the lot width, the house without a basement requires no variances.

Mr. Mayerfeld said except for lot width, all bulk requirements are in full compliance. We hoped relief of FAR requirements would come and the drawings could be amended.

Mr. Manning asked Mr. Mayerfeld if he ever considered asking for a variance.

Mr. Mayerfeld answered at a certain point we could have but strategically we decided to begin construction and hope it would comply with the new zoning.

Mr. Sevastian said if the ground floor was less than 40% of the total floor area of the house FAR relief would have been used and the variance would be less.

Mr. Liebman said this is a phenomenal plan. Can it be modified to an extent that everyone is happy? This is a lot of space. It is our job to find out if applicant can lessen the degree of the variance, possibly a 50% decrease.

Mr. Mayerfeld said the plan can certainly be modified.

Mr. Liebman noted any granted variance goes with the house.

Mr. Sevastian said reduction of certain spaces not specifically for treatment of the child, i.e., storage and kitchenette, could lessen the variance.

Mr. Mayerfeld said the footprint of the house is pre-established. How the house looks outside is pre-established.

Mr. Liebman reiterated this is a large variance.

Mr. Emanuel said the new Chestnut Ridge FAR allows .20. It is not far-fetched to go to .25.

Mr. Sevastian said the ground floor is more than 40% of .25.

Mr. Emanuel said as designed, the ground floor is 41% of the total architecture which is closer to the .25 provision.

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

Ms. Silverman felt applicant should have come to the ZBA earlier rather than coming before the ZBA after construction is underway to apply for a variance for the cellar.

Mr. Emanuel said he has conferred with Mr. Sevastian about the FAR law. The house has been planned since 2016. We decided to pull the trigger and do something at risk.

Mr. Sevastian reviewed the balancing test the ZBA uses when considering a variance.

Mr. Mayerfeld said we didn't build now and ask later. We thought we could build the space without a variance.

Mr. Liebman opened the meeting to the public.

Joseph Heitner of 18 Oriole Street affirmed to tell the truth and said he has been a lifelong friend of the Maierovits family. They will be an asset to the neighborhood and provide a positive contribution.

Jacob Goldbrenner of 28 Raymond Avenue affirmed to tell the truth and said this property has been unsafe for many years. He is happy to see the construction of a beautiful home. Mr. Goldbrenner then

said from the outside of the house there is no difference in the appearance whether or not a variance is granted.

Hilda Kogut of 20 Pine Knoll Court affirmed to tell the truth and said she understands the situation but feels the variance should not be granted. Ms. Kogut said the owner and ZBA should come to an agreement.

Jerry Liebelson of 31 Midway Road affirmed to tell the truth and said he is troubled by this gamble. There is no plan "B". Why did they start construction without a variance? Why couldn't they wait until a variance was granted? Mr. Liebelson is not hearing a good explanation from applicant. He then asked what happens if the house is sold. The variance is intact. Mr. Liebelson expressed concern that the variance remains with the house. If something changes in the use of the area we will have problems.

Mr. Sevastian said these are questions for the Board.

Mr. Manning said the cellar is below ground level; it can't be seen.

Mr. Waldbaum said there is no detriment to the neighborhood.

Mr. Sevastian said this Board operates by written resolution. He writes what the Board says concerning adverse effects on the neighborhood, is the need for a variance a self-created hardship, is there any other method to achieve the outcome and would the Board feel better about the request if the applicant sought to mitigate the variance.

Mr. Waldbaum said members of the community have spoken for and against the granting of the variance. He feels this is a positive step and sees no negative. This is a family in need which supersedes everything else but they should work to reduce the requested variance.

Mr. Liebman said the ZBA would be remiss if they didn't ask applicant to address the size of the variance. We have to try to enforce the Chestnut Ridge Code. Compromise on the size of the basement has to be considered. Mr. Liebman is tired of construction being done and then followed up with a visit before the ZBA. A lot could have been done differently. Mr. Liebman is asking applicant to take a good look at a basement that will satisfy the needs of the child. Show us something different.

Mr. Emanuel said he will meet with the architect and therapists to see what can be done.

Mr. Mayerfeld showed a booklet of necessary equipment for the child's therapy to Mr. Liebman and the Board members.

Mr. Liebman said he admires what the family is doing.

Mr. Sevastian asked if applicant is requesting an adjournment to the July 16, 2018 meeting.

Mr. Emanuel replied yes.

Susan Silverman made a motion seconded by Stanley Waldbaum to adjourn the public hearing until

July 16, 2018. The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Stanley Waldbaum-yes, Duane Penister-yes, Ed Manning-yes.

2. MINUTES – Approve March 19, 2018, April 16, 2018 and May 21, 2018 Meeting Minutes.

Susan Silverman made a motion seconded by Duane Penister to approve the March 19, 2018 meeting minutes as submitted. The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Duane Penister-yes, Ed Manning-yes, Stanley Waldbaum-yes.

Duane Penister made a motion seconded by Susan Silverman to approve the April 16, 2018 meeting minutes as submitted. The following vote was taken: Stephen Liebman-yes, Duane Penister-yes, Susan Silverman-yes, Stanley Waldbaum-yes, Ed Manning-yes.

Ed Manning made a motion seconded by Duane Penister to approve the May 21, 2018 meeting minutes as submitted. The following vote was taken: Stephen Liebman-yes, Ed Manning-yes, Duane Penister-yes, Susan Silverman-yes, Stanley Waldbaum-yes.

Stanley Waldbaum made a motion seconded by Duane Penister to approve the May 21, 2018 Resolution of the Chestnut Ridge Zoning Board of Appeals entitled "In the Matter of the Application of Trailing Ridge ("Appellant" or "Applicant"), for variances from Article IV-2 of the Zoning Code of the Village of Chestnut Ridge, relative to the construction of a private recreational area to serve the Trailing Ridge Townhouse Project in the Borough of Montvale, NJ, at the premises identified on the Town of Ramapo Tax Map as parcel 67.13-1-1, located at 295 Red Schoolhouse Road, directly north of the New Jersey border, approximately 245 feet south of Loescher Drive, Chestnut Ridge, New York 10977, in the LO Zoning District".

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

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