

APPROVED

VILLAGE OF CHESTNUT RIDGE
ZONING BOARD OF APPEALS
JULY 15, 2019

Present: Stephen Liebman-Chairman, Susan Silverman-Deputy Chairperson, Stanley Waldbaum, Duane Penister, Michael Grossman, Donald Cornwell, Michael Williams-Alternate

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

Absent: Nabil Ghanem

The meeting was called to order at 8:00 P.M. by Stephen Liebman-Chairman. Mr. Liebman thanked members of the public for their attendance.

1. **107 Old Nyack Turnpike-Continuation of Public Hearing** to consider the application of 107 Vogel LLC to consider variances from the requirement of Article XIII of the Zoning Code in order to continue the multi-family use to allow 11 multi-family dwellings.
Tax Designation: 56.20-2-1, in the R-15 Zoning District.

Minimum Front Set Back: (Old Nyack Turnpike)	35 feet required where 20 feet is provided.
Minimum Front Set Back: (Hungry Hollow Rd)	35 feet required where 22 feet is provided.
Minimum Front Yard: (Old Nyack Turnpike)	35 feet required where 20 feet is provided.
Minimum Front Yard: (Old Nyack Turnpike)	35 feet required where 22 feet is provided.
Minimum Side Set Back:	20 feet required where 1.7 feet is provided.
Minimum Rear Set Back:	35 feet required where 18.9 feet is provided.

Mr. Liebman noted an email dated July 8, 2019 from Joseph Churgin, Esq. (55 Old Turnpike Road, Suite 209, Nanuet, NY), Attorney for Applicant, requesting an adjournment to the next ZBA meeting.

Donald Cornwell made a motion seconded by Susan Silverman to adjourn this application to the August 19, 2019 meeting at applicant's request. The following vote was taken: Stephen Liebman-yes, Donald Cornwell-yes, Susan Silverman-yes, Duane Penister-yes, Stanley Waldbaum-yes, Michael Williams-yes.

2. **Fox Development-Continuation of Public Hearing** to consider the application of Fox Development in seeking the following variances from Article IV Table of Bulk Requirements Use Group J:
Tax Designation: 63.09-1-1 in the PI Zoning District

Minimum Front Yard:	(Route 45)	19.0 ft. requested for parking.
Minimum Front Set Back:	(Scotland Rd)	46.7 ft. requested.
Minimum Front Yard:	(Scotland Rd)	23.9 ft. requested for parking.
Minimum Rear Set Back:		10 ft. requested.
Minimum Rear Yard:		10 ft. requested.
Minimum FAR:		0.65 requested.

And to consider variances from the Table of General Use Requirements Part II, PI District:
Regulations for the 66% limit on building size Column G (3)
Regulations for distance of 300 feet for loading dock Column G (5)

Kenneth Moran, Esq. (Attorney for Applicant), 11 N. Airmont Road, Suffern, NY and Rachel Barese, PE of Civil Tec Engineering & Surveying PC, 139 Lafayette Avenue, 2nd Floor, Suffern, NY appeared.

Mr. Liebman stated the Board has received the revised site plan.

Ms. Barese said the minor revisions made were based on comments from the ZBA and public. The bulk table now shows a comparison between the existing condition and what is proposed. Ms. Barese then said concerns about the wetlands were expressed at the last meeting. The wetlands were flagged by a wetlands specialist who confirmed there are no NYSDEC wetlands on site. There is a small pocket wetland which has formed due to the flood mitigation basin where water conveys through the basin. The ground gets wet and plants grow. Ms. Barese stated the wetlands limits are now shown on the site plan. We propose to keep the same total volume but the shape of the mitigation basin is to be slightly altered. The water from Matthew Drive can still convey out; everything will be piped together. Ms. Barese added a review will be done by the Planning Board and Village Engineer.

Mr. Sevastian said this is an uncoordinated SEQRA review. We have no details on the drainage plan or calculations which creates a difficulty for the ZBA.

Ms. Barese said the initial design and intentions have already been reviewed by the Village Engineer. We have a lot to pare down and get to 100%.

Mr. Sevastian said information from the Village Engineer would be helpful.

Mr. Moran stated there will be no increase of net runoff; this plan meets all village standards regarding drainage.

Ms. Barese said there is no impact on ground water. Weiss Terrace is above us and water runs down. Ms. Barese reiterated there is a 50 foot buffer and 85 foot planting easement [50 feet on applicant's site and 35 feet on the neighboring property]. The setbacks are to the buffer line, not the property line. The line of what exists now has been added to the site plan.

Ms. Silverman asked about screening in the area parallel to Matthew Drive.

Ms. Barese replied we are comfortable with installing a solid fence if the Planning Board requests it.

Mr. Sevastian questioned the visual impact of the structure and added the ZBA has access to the landscaping plan but the Planning Board has much more detail.

Ms. Silverman wants to see screening on the plan.

Mr. Sevastian said the variances can be conditioned upon compliance with Planning Board instructions. Mr. Sevastian continued this is difficult to do without professional staff and added usually the SEQRA is done when the application comes to the ZBA.

Mr. Moran said the Planning Board sent applicant to the ZBA to avoid preparation of detailed plans if the ZBA does not grant the variances.

Mr. Sevastian reviewed the steps the Planning Board follows for an environmental review to determine if there is an issue going forward to satisfy the SEQRA requirements.

Mr. Moran said we'd rather have one review than two.

Mr. Sevastian said how can we tell the Board there is no drainage impact and no harmful visual impact without the information the Planning Board has. The ZBA is not for advisory opinions. It is not fair to the applicant to pay for two SEQRA reviews. Mr. Sevastian then said new drawings were received tonight; the Board is not ready to vote. Mr. Sevastian will speak to Paul Baum, Planning Board attorney, to determine why we are proceeding this way.

Mr. Liebman noted receipt of 3 letters concerning this application and asked if they should be read into the record.

Mr. Sevastian said identify them for the record. A copy of each should go to applicant so they can be discussed at a later date.

Mr. Liebman ID'd the following letters:

1. Luis Fernandez of 10 Weiss Terrace – July 10, 2019
2. Chris Delfeld of 4 Weiss Terrace – July 14, 2019
3. Steven Fiasconaro of 1 Weiss Terrace – July 15, 2019

Mr. Liebman then asked if any member of the public wished to speak.

Luis Fernandez of 10 Weiss Terrace was reminded he is still under oath. Mr. Fernandez reiterated the concerns noted in his letter, i.e., parking, landscaping, stormwater management and drainage plan.

Mr. Sevastian again noted the same volume of water will be handled but will be in a different location; however, the ZBA has nothing to do with this.

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

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

Joseph Wilder of 20 Briar Court affirmed to tell the truth and recommended the Board proceed with extreme caution. Mr. Wilder said he is aware that the house on the NE corner of Matthew Drive has a water problem.

Magali Dupuy of 49 Spring Hill Terrace was reminded she is still under oath and said if the impervious surface is increased the surrounding area will be affected. Ms. Dupuy voiced concern about greenhouse gases and flooding when the snow mounds on the property start to melt.

Mr. Fernandez said there is one drywell on the property that drains into the stream; they need multiple drywells.

Bruce Goldsmith of 2 Weiss Terrace was reminded he is still under oath and said he agrees 100% with the Village Attorney. How can the ZBA make a decision without the Planning Board information? Mr. Goldsmith said hopefully the applicant will go back to the Planning Board until the plans are satisfied. Mr. Goldsmith then voiced his concerns about what he believes is a request for excess parking spaces. Mr. Goldsmith presented a photograph of the pipe from Matthew Drive taken 3 days ago after rain to Mr. Liebman and the Board members.

Mr. Moran said trees and shrubs were taken down between Matthew Drive and the factory to keep the basin clear of vegetation. This was done at the request of the village.

Ms. Silverman questioned that there were no DEC wetlands. Ms. Silverman then said she is hearing issues and concerns about a good water level and asphalt coverage and asked about a drainage plan.

Ms. Barese said because of the property size and disturbance there is a section of runoff production. The effects of that go downstream, not upstream.

Mr. Sevastian said the SWPPP developed by applicant was reduced to a physical plan instrument recorded with the county.

Ms. Barese stated there is no infiltration on the Matthew Drive side. It won't change the problems on Matthew Drive.

Mr. Liebman asked if there were other questions.

Mr. Goldsmith said there is a 100 year pond built before development of Matthew Drive. Maybe it's not big enough.

Mr. Sevastian replied applicant doesn't have to fix Matthew Drive.

Mr. Moran said the purpose of the pond is to ameliorate water when the stream is backed up into the area.

Mr. Sevastian said we can't design a drainage system. A professional is needed to study the situation and come up with solutions. Impacts can be mitigated by solutions. Mr. Sevastian is glad Martin Spence, Village Engineer, is looking into the situation.

Mr. Liebman stated we've never had this problem before.

Mr. Moran requested a two month adjournment and said we'll go back to the Planning Board and CDRC, or both, to try and resolve this.

No one else from the public wished to speak.

Michael Grossman made a motion seconded by Stanley Waldbaum to continue the public hearing to September 16, 2019 at the request of applicant. The following vote was taken: Stephen Liebman-yes, Michael Grossman-yes, Stanley Waldbaum-yes, Susan Silverman-yes, Duane Penister-yes, Donald Cornwell-yes, Michael Williams-yes.

3. **Struli Oster-Public Hearing** to consider the application of Israel Oster for variances to increase the maximum FAR from 0.25 required to 0.4 provided.

Tax Designation: 57.17-2-35.2 and 57.17-2-35.3 in the R-15 Zoning District

Joseph Churgin, Esq (Attorney for Applicant), 55 Old Turnpike Road, Suite 209, Nanuet, NY and Rachel Barese, PE of Civil Tec Engineering & Surveying PC, 139 Lafayette Avenue, 2nd Floor, Suffern, NY appeared.

Mr. Waldbaum said his wife owns houses across from this property; however, he has never met applicant or anyone with financial involvement. Mr. Waldbaum feels he can be fair and impartial but will recuse himself if the Board or applicant wishes him to do so.

Mr. Churgin said he has no issue with Mr. Waldbaum's participation.

Mr. Liebman and the Board members have no objections to Mr. Waldbaum's participation.

Mr. Churgin then said this property was previously before the ZBA. We're here to correct a mistake with the previous application.

Ms. Barese gave a brief overview. Originally the applicant purchased five lots from the Thruway Authority. Due to the deficient sizes of the lots the final subdivision plan was for one semi-attached house which abutted the Thruway and one single family house for a total of 3 families. Ms. Barese continued we received the requested variances for lot area and FAR, subdivision approval and site plan approval. As we went further with the building permit it was determined the FAR did not meet the building footprint. There were two plans and two narratives. A 0.4 FAR was requested on both. Ms. Barese added the setbacks and layouts are the same. The increase in FAR is internal.

Mr. Sevastian reviewed what was approved by the ZBA on July 28, 2015.

Ms. Barese said the buildings are unchanged. As previously noted the subdivision plan has been filed and site plan approval has been received. If we receive a variance for the 0.4 FAR we will go back to the Planning Board for an adjusted site plan.

Ms. Silverman asked if the function of the structures has changed.

Ms. Barese replied no. These are residential homes.

Ms. Silverman asked if there has been any construction.

Ms. Barese answered no.

Mr. Liebman said the ZBA had recommended this configuration. This is an odd property that abuts the NYS Thruway.

Ms. Barese said on the outside everything is the same as what was previously approved.

Mr. Liebman asked if there were any questions from the Board. There were none.

Mr. Liebman then opened the meeting to the public.

Annie Wilson of 175 Old Nyack Turnpike asked how this impacts her home and said she was never notified by the Thruway Authority. Ms. Wilson then asked where her house is in relation to applicant's site.

Ms. Silverman pointed out Ms. Wilson's location on the site plan.

Mr. Sevastian said notifications are only sent to those within 500 feet of the property to be discussed.

No one else from the public wished to speak.

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

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

Susan Silverman made a motion seconded by Duane Penister to approve the requested variances to increase the FAR from 0.25 required to 0.4 provided. The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Duane Penister-yes, Michael Grossman-yes, Stanley Waldbaum-yes, Donald Cornwell-yes, Michael Williams-yes.

Mr. Sevastian said he will write a resolution for the Board's approval at the next meeting.

4. 7 Carlisle Road-Public Hearing to consider the application of Akiva Faerber in seeking a variance from the provisions of Article V Sections 1 and 3D of the Zoning Code to allow the use of a pre-existing adjunct driveway.

Tax Designation: 63.18-3-64 in the R-25 Zoning District

Akiva and Bernice Faerber, Applicants appeared. Both affirmed to tell the truth.

Mr. Faerber said he is requesting a variance to address and correct a misstep by the previous owner of his property. An adjunct driveway to the right of the existing driveway was put in by them in 2010 without the appropriate approval. They applied for a building permit and were denied. Mr. Faerber added he uses his garage for storage of two cars. His son who lives at home uses the space to park and not block other vehicles. Mr. Faerber said we hope to be granted the privilege of using this additional

space with the granting of a variance after which we will apply for a building permit. Mr. Faerber then commended the Village Board for the support given to him.

Mr. Sevastian said the violation popped up and asked if there is money being held in escrow.

Mr. Faerber replied there is money in escrow, an engineer was employed for a site plan, all letters have been sent out and all necessary paperwork has been filed with the Building Department.

Mr. Liebman requested Mr. Faerber point out the location of the adjunct driveway on the site plan which was done.

Mr. Faerber added his neighbor had no objection when the adjunct driveway was installed and has no objections to it at this time.

Mr. Sevastian reminded the Board members of the five questions to be answered when considering bulk variances.

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

Mr. Liebman opened the meeting to the public.

Isaac Goldstein affirmed of 3 Lamont Avenue affirmed to tell the truth and said he has no complaints or issues with this application,

Mr. Waldbaum asked Mr. Goldstein if he knows why the area was put in.

Mr. Goldstein replied no.

Robert Rivera of 18 Renfrew Road affirmed to tell the truth and said he has no problem with granting the application. Mr. Rivera said it is great to meet an honest person who wants to fix an issue. He lives behind applicants' house; the area in question doesn't affect anyone.

Avraham Levotizt of 4 Carlisle Road affirmed to tell the truth and said the Faerbers moved in five years ago. This is a little piece of dirt. Mr. Levotizt sees no reason to deny the application.

Alfonso Cordova of 22 Renfrew Road affirmed to tell the truth. He has nothing to say about this application but said it's nice to see what goes on in the village.

Moshe Kolodny of 11 Perth Avenue said he echoes everyone else's thoughts. He has no problem granting the variance.

No one else from the public wished to speak.

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

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

Mr. Liebman said he has no problem with this variance. There does not appear to be any detriment to the neighbors and there was no opposition from the public.

Mr. Liebman then asked the Board members for comments.

Ms. Silverman said this is a well maintained property. She has no problem with granting the variance.

Mr. Cornwell said this is a nice place. He also has no problem with granting the variance.

Mr. Waldbaum agrees with what has been said. He noted this is not precedent setting; it is correcting a violation. Mr. Waldbaum supports the variance as long as there is no evidence of any open violations.

Mr. Sevastian will add no open violations as a condition in writing the resolution.

Susan Silverman made a motion seconded by Stanley Waldbaum to grant the variance. The following vote was taken: Stephen Liebman-yes, Susan Silverman-yes, Stanley Waldbaum-yes, Michael Grossman-yes, Duane Penister-yes, Donald Cornwell-yes, Michael Williams-yes.

5. Minutes: May 20, 2019 and June 17, 2019

Michael Grossman made a motion seconded by Susan Silverman to approve the May 20, 2019 meeting minutes as submitted. The following vote was taken: Stephen Liebman-yes, Michael Grossman-yes, Susan Silverman-yes, Donald Cornwell-yes, Michael Williams-yes. Duane Penister and Stanley Waldbaum abstained as they were absent from the meeting.

Approval of the June 17, 2019 meeting minutes was postponed.

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