

**VILLAGE OF SPRING VALLEY
ZONING BOARD OF APPEALS
JULY 13, 2011
(CORRECTED MINUTES)**

A Regular Meeting of Spring Valley Zoning Board of Appeals was held in the Board Room of the Village Offices on Wednesday, July 13, 2011.

PRESENT: Moshe Hopstein, Vice-Chairperson presiding

Members: Pat Caldwell, Chairperson - Absent
Eli Solomon
Gerard Sicard
Martha Patrick
Asher Grossman

Asst. Village Attorney: Ed Katz
Office Services Aide: Reine Lamarre
Building Inspector: Walter Booker

Vice-Chairperson called the meeting to order at 7:13 PM.

MINUTES JUNE 8, 2011

On a motion by Mr. Solomon and seconded by Ms. Patrick, the Board voted unanimously to approve the minutes of June 8, 2011.

PUBLIC HEARING

PUBLIC HEARING: 251 WEST CENTRAL AVE. – CHURCH OF GOD OF PROPHECY

The Building Inspector, Mr. Booker, read the Particulars. This is an initial public hearing for the Church of God of Prophecy located on 251 West Central Avenue. The location is on the south side of West Central Avenue, opposite Chestnut Street. The applicant seeks variances for the demolition of an existing structure and the construction of a two-story Church with accessory parking. The variances required are Side Yard 20' required, 16.9 provided; total side yard 40' required, 39.8' provided, Height: 35' required, 39' provided.

Attorney, Ira Emanuel, appeared on the applicant's behalf. Mr. Katz stated this is an initial application and the County Department of Planning made recommendations for the correction of parking calculations on the site plan; they oppose granting parking variances for properties located on state roads and highways. The Planning Board has not completed SEQRA review, although they referred the application to the ZBA. The ZBA can open the public hearing, but cannot vote. The hearing will need to be continued until next month and a vote can occur after the Planning Board issues a negative declaration.

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Mr. Emanuel described the property's location as being next to the Verizon building on Route 59, across from Finkelstein Library. The parcel is a little over an acre at 1.03 acres. The Church occupies the current structure. They want to build a new building, two-stories, and 9,900 square feet on each level, with approximately 200 seats. As the result of recalculation of the floor area, the applicant is also seeking a parking variance.

Under the zoning code, there is a standard based on the number of seats and total square footage of the facility when dealing with Churches and other similar institutions. Seating is calculated by having one parking space required for every four seats, two hundred seats require fifty parking spaces, and fifty-one parking spaces would be provided, so no variance is required based upon that. There is also a requirement to have a parking space for every 200 square feet, which would require 99 parking spaces, twice as many than is provided, which Mr. Emanuel described as being significant overkill for the way the Church is used and built.

The Church will not be using both floors at the same time. On Sunday morning, worship services are held first, followed by Sunday school classes, and afterwards there is a coming together for a meal. The Church will occupy the same amount of people with no additional cars; the same congregants will be using the building. On the busiest day, Sunday, half the building is always empty. Mr. Emanuel believes the parking requirement is higher than needed. The Church has operated for many years using an established shuttle van service that makes trips to transport patrons. The Church uses 15 seat passenger vans and each take three or four trips, knocking out the need for all the required parking spaces. Mr. Ira Emanuel makes one final point in regards to the parking variance by saying that most people come to Church with family members and not alone and ride in the same vehicle.

Other issues relate to size of the building. Very small variances are needed and include a small variance on north side yard and a variance for total side yard that clearly no one will ever notice. The Church will still be two stories. Floor Area Ratio is harder because of the way the space is measured. The Church has a need to accommodate the congregation. Mr. Emanuel pointed out that other buildings in the area have larger Floor Area Ratios. The Sniffen-Sagala Funeral Home has a 0.9 Floor Area Ratio, the Verizon building has a 1.7 Floor Area Ratio (enormous when compared to the Church), Finkelstein has a Floor Area Ratio of 0.8, a nearby shopping center is 0.3, an apartment complex further down has a Floor Area Ratio of .53, as compared to the Church's request for .44. Mr. Emanuel implied that having large buildings in the area isn't unusual. The proposed location on Route 59 is not intrusive on the residential character of the area.

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Mr. Hopstein was concerned about dual usage if the Church is rented during the week. Mr. Fenton Reid, Associate Pastor of the Church, appeared and provided additional information to give the ZBA members more comfort. He testified that none of the space is currently rented; nor do they have the intent to. They will just have a day care operating during the week, since they have a charter for school and that is all.

According to Mr. Reid, the only use of the Church has been as a house of worship and has never used both spaces in the past two years. They are not a large enough of a congregation to use two spaces. The Church is currently using a house and renting an outside space. The current capacity is at 80 or 90 people. Many are shuttled in and others arrive by car.

Given the larger congregation in attendance for weddings and funerals, Ms. Patrick asked where these attendees would park. Mr. Reid answered that the existing parking spaces can be used in addition to shuttles transporting people from different parking areas. Ms. Patrick inquired about other people invited who would not use the shuttle. Mr. Emanuel answered that the regular congregants would be the ones to hold events at the Church. They are aware of the shuttle and use the shuttle, and would instruct outsiders to meet at another location for shuttle use.

Mr. Hopstein asked if anything has been received from the County and Mr. Booker referenced a letter from the Rockland County Planning Department dated March 28, 2011. Mr. Katz provided a summary of the letter. The Department is not in favor of parking variances on state roads and urges off-site parking. The number of stories needs clarification.

Some of this has already been addressed. Mr. Emanuel noted the date of the review, and added that there were a couple of Planning Board meetings since that date and additional changes were made. Mr. Hopstein asked Mr. Booker if the Fire Chief looked at the plan. Mr. Booker confirmed the plan's revision to the satisfaction of everyone.

Mr. Hopstein asked for specifics regarding the roof. Mr. Booker answered that is a pitch roof, 4 feet over as indicated by the memo. The basement is on the first floor and there is an attic. The basement is at full height. Mr. Hopstein asked about seating. Seating will be on the main level at a maximum of 200 seats. Mr. Emanuel is not arguing as to whether the basement should be considered in the Floor Area Ratio. There are 200 seats planned. Mr. Grossman asked if the County knows about the shuttle service and Mr. Emanuel answered that the County only knows of the information included in the original narrative.

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Mr. Reid approached Verizon to obtain permission to use their parking space, but he was denied. He also tried a different property further down into West Central Avenue but was unsuccessful. The applicant intends to try once again. The Church shuttle does home pick-ups for many of the congregants unable to drive, including teenagers and the elderly.

There was no further testimony from the public. Mr. Emanuel asked the members of the Church present to raise their hands to show their active support for the Church.

Mr. Katz said that one of the Board members wanted to know if something can be received in writing about the parking situation before the August meeting, since there cannot be a vote at the current time. Mr. Emanuel promised to provide a more detailed narrative with respect to the shuttle, how many people use it, and any other details providing the Board with additional comfort.

Mr. Emanuel asked for the request be continued until the August 10, 2011 ZBA meeting. Mr. Hopstein urged the applicant to get something in writing concerning the parking situation. Mr. Katz agreed that it is better to keep the hearing open and advised the applicant to approach the Spring Valley Senior High School prior to the August ZBA hearing. Vice-Chairperson Hopstein continued the hearing for the August 10, 2011 meeting.

4. CONTINUATION OF PUBLIC HEARING: 275-287 RTE 59 – VALLEYSIDE GARDENS

The Building Inspector, Mr. Booker, read the Particulars. This is the application for 275-287 Route 59, Valleyside Gardens. The location is on the south side of Route 59, zero feet from the intersection of West Street. Mr. Booker deferred to the applicant for the accuracy of the proposed revisions for the dwellings. Mr. Hopstein asked about the changes made since last month. Mr. Booker received the revisions, but was unable to distribute them.

Mr. Katz read a letter dated July 12, 2011 from the County. This is a new recommendation because they denied the first. In summary, the referral states that the County is not in favor of granting parking variances in locations on state highways. Furthermore, the applicant is requesting a 5.6 percent reduction in the parking requirement, parking not provided for guests, curbside parking is not provided near the site, and inadequate on-site parking could impede the flow of traffic along the state highway. At a minimum, an overflow parking agreement must be in place with a nearby property owner to ensure adequate parking for the proposed use.

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The County also did not support the original proposal for 42 units, which is 61% more than permitted maximum density. The applicant met with the Planning Board. The current submittal is for 36 units (or 28%) is more than the allowable maximum density. While this is a significant reduction, permitting development that that does not comply with bulk standards can set an undesirable land use precedent and result in overutilization. The existing infrastructure's ability to accommodate residential developments of this size is a countywide concern and needs further evaluation. Road congestion, sewer systems, storm-water management systems, and water supply will all be overburdened.

Mr. Licata is expected to address this. In addition, there is an unsigned, June 7, 2011, letter from Mr. Lennie Lesin of 273 Route 59. There are new variances needed that the applicant must address.

Mr. Licata assured the ZBA that he has answers for everything. He is comparing the old bulk table to the new bulk table. The new variances are as follows: the front yard variance has been eliminated due to the reduction of units. Minimum Side Yard is 13.8; Rear Yard is the same at 7'; Side Yard is 33.8 total feet provided, Floor Area Ratio is .71; proposed Units Per Acre for Density of Multifamily Dwellings is 25; Parking 68 proposed spaces. These are the new variances as opposed to the old variances.

Mr. Licata stated that the applicant appeared before the Planning Board on July 7, 2011 and was issued a negative declaration. A finished rendering shows that the project shrank by six and the side yard variance was eliminated. Mr. Lesin was concerned about a variance on his side of the property but there are no such variances. Parking is now open-ended and cars have full range of movement so they will not have to back up and turn around. That is something Mr. Kauker was very interested in receiving.

While addressing Item 1 in Mr. Lesin's letter, Mr. Licata stated that self-imposed hardship has to do with a use variance so. Therefore, it is not applicable to this application. Mr. Katz replied that self-imposed hardship is a factor for the Board to consider. Mr. Licata addressed Item 2 of Mr. Lesin's letter. The safety issue has to do with fire apparatus and needs approval from the Fire Chief and Fire Inspector. Mr. Licata acknowledged their receipt of the plans. Mr. Licata does not anticipate a problem with meeting traffic requirements, now that the aisles do not dead-end. He is fully aware of Mr. Kauker's concern over traffic flow.

While referring to Item 3 of Mr. Lesin's letter, the Planning Board has ordered a traffic study that is currently being conducted. The applicant will comply with all requirements. In reply to Item 4 of the letter, Mr. Licata pointed out the reduction of six units and the increased size of the recreational area. There will also be an area for kids to play.

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Mr. Licata read two letters of support into the record from adjoining property owner, Zechariah Weitz of the ECHO National Institute for Health, and Mr. Reuven J. Epstein, Esq., a local attorney with an office on 271 Route 59. The letter from Mr. Epstein addressed Chairperson Caldwell and the ZBA members. Mr. Licata read, "I am the property owner of 271 Route 59. I am located in close proximity to the proposed development. I wish to inform the Board that I have reviewed the site plan for the proposed development and I have no objections to it. Furthermore, I would urge the Board to grant its approval. Additionally, I would like to advise you that I am a neighbor of the development that is in the process of being completed by the same developer and I am very satisfied with their professionalism and manner in which they have accommodated the concerns of the neighbors, including myself, (they graciously agreed to put up an appropriate fence between our properties).

Mr. Weitz's letter to Chairperson Ms. Caldwell and the ZBA, reads, "I own the property adjoining the aforementioned development. I reviewed all the plans and would like you to know that I fully support the development of this property as proposed. I believe the area will be enhanced with the planned newly built homes and landscaping. Due to the upgraded drainage that is being installed, I am looking forward to the prevention of damage due to flash floods such as we recently experienced. I urge the Board to approve and support this project".

Mr. Licata referenced a letter that came with Mr. Brooker's new plan. The letter also discussed the reduction in density, the reduction in Floor Area Ratio, and the reduction of the six units, also how this has affected the front yard variance's removal. The side and rear variances were reduced, the additional implementation of recreational space, the parking area has been revised to remove dead-end parking aisles, the grass area increased, and the refuse containment area was relocated as requested by the Planning Board. The parking variance request was reduced down to 5.5 from 12 and decreased the total side yard variance.

Mr. Licata addressed the County's July 12 letter and said there was a revision from a denial to modifications. Mr. Kauker was satisfied with the modifications during the July 7, 2011 Planning Board meeting and the applicant received a negative declaration. Mr. Hopstein raised a question concerning sewer capacity. Mr. Booker stated that they did not do anything or get anything back. The ZBA does not get involved with sewer issues; the Planning Board addresses that.

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Jean Remy testified that he is a nearby homeowner having lived there for more than 20 years. He prefers a park but gives his support to the proposed dwelling units, adding that it will produce revenue and be on the right track of development. He believes it will help with recreating a residential area and home values will increase, not decrease. He concluded by stating his approval of this project. Mr. Licata noted the space available for snow storage that was a previous concern for both the Planning Board and Mr. Kauker. Mr. Katz said the Planning Board would make a determination when the traffic study is ready before the August 4, 2011 meeting.

On a motion by Mr. Grossman and seconded by Mr. Sicard, the Board voted unanimously to close the public hearing. On a motion by Mr. Solomon and seconded by Mr. Grossman, the variances were approved. The ZBA voted 4-1, with Ms. Patrick voting in opposition. Mr. Hopstein voted in favor due to the large amount of support shown through the testimony and letters provided.

**5. PUBLIC HEARING: 1 DR. FRANK ROAD- CONGREGATION VAYOAL
MOSHE SATMAR**

The Building Inspector, Mr. Booker, read the Particulars. This is an initial application for a public hearing for 1 Dr. Frank Rd. The location is the west side of Dr. Frank Rd. and the corner of Yale Dr. The applicant is seeking a variance for an addition in the front yard to an existing, local house of worship. The variances are as follows: Lot Area: 25, 000 sq. ft. required, 9,470' provided; Lot Width: 125' required, 89' provided (existing condition); Front Yard: 35' required, 19.1' provided; Side Yard: 20' required, 9.5 provided.

Mr. Katz stated that this is a type two action under SEQRA and no further environmental review is required. Attorney Ryan Karben, Esq. appeared for the applicant. He stated that the addition only requires a front yard variance in order to facilitate it. The addition would provide a vestibule for entrance and add office space. There will be only one change and that will produce a nice aesthetic impact.

Mr. Hopstein wanted clarification about the use of the property and the existence of parking. Mr. Karben said it is a house of worship and there is a need for a space for record keeping; there is no change in use. Mr. Grossman asked if there would be an addition of seats or parking. Mr. Karben answered no and noted ample space on-site for the proposal. Currently there is no on-site parking. Mr. Solomon asked if there would be a new entrance. Mr. Karben said there will a modest addition to the already existing interior hallway and entrance. Mr. Grossman asked if there is a bathroom area already in existence and Mr. Karben answered that a bathroom already exists.

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On a motion by Mr. Solomon and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Grossman and seconded by Mr. Sicard, the Board voted unanimously to approve the variance 5-0.

**6. CONTINUATION OF PUBLIC HEARING: RE-APPROVAL FOR
HANDYMAN & HELPERS**

The Building Inspector, Mr. Booker, read the Particulars. This is the continuation of a public hearing for the re-approval of Handyman and Helpers. The location is on the West side of Madison Avenue, about sixty-seven feet south of its intersection with West Furman Place. The applicant is seeking a use variance to convert an existing structure from office and residential use to four residential units.

The applicant, Mr. Goodman, testified to sending in the required tax returns proving that his financial situation has not gotten better. Chase Bank pulled his original line of credit as the result of the changing economy. He has not made any changes to the original application and is reapplying because the variances expired. Mr. Goodman made improvements to the property by cutting trees down and having the building cleaned. Mr. Hopstein asked why the application received approval a year ago. Mr. Goodman explained there was a loss at the end of 2010. Mr. Katz acknowledged receiving a letter and tax return detailing a large loss in 2008, 2009, and 2010.

Mr. Ira Emanuel, Esq. appeared on behalf of the applicant but was not present during the last meeting. Mr. Emanuel described the surrounding area of the property as a mixed area. He said the area is worse when a property is not in use. Mr. Emanuel stated that office space in Spring Valley cannot be given away, but there is a need for residential rentals. Mr. Hopstein acknowledged his awareness for how the commercial end is suffering. Mr. Grossman added that the applicant provided everything and prior approval was granted. Mr. Katz made the point that whatever occurred prior is not binding. Mr. Hopstein concluded by stating that he grants very few approvals for a use variance and this application is one of the few.

On a motion by Mr. Sicard and seconded by Mr. Solomon, the public hearing was closed. On a motion by Mr. Grossman and seconded by Mr. Hopstein, the variance was unanimously approved by the Board 5-0.

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7. CONTINUATION OF PUBLIC HEARING: 95 NORTH MAIN STREET

The Building Inspector, Walter Booker, read the Particulars. This is the continuation of a public hearing for 95 North Main Street. The applicant is seeking a use variance to use the upper floor of the building as a daycare center.

Mr. Katz cited previous testimony where community members, including an administrator at West Street Daycare, protested the proposed use of the upstairs floor of the building because of alcohol service downstairs. Mr. Katz reviewed the Village Urban Renewal Plan and determined that a use variance to operate such a daycare business may be granted if the Board is satisfied with the proof of hardship and other requirements provided by the applicant.

Mr. Licata appeared for the applicant and cited a net loss exceeding \$85, 000.00 for the year of 2010. The proposed daycare tenant, Ms. Hisha Ewing, appeared before the Board as a witness for the applicant and explained how she loves her job, students, and helping people; she lives for the students and plans to save them. Parents need help and so do students. It is not a daycare, but a pre-school for parents who are unable to put their children in pre-schools. Ms. Ewing emphasized the great need for Universal Pre-Kindergarten. She also wishes to include a Kindergarten program in the school to accept children for a full day. Ms. Ewing has been teaching for 10 years and the pre-school will be a great asset to the community.

Mr. Hopstein asked if the parents have to pay or if it is a subsidized program. Ms. Ewing answered that Pre-Kindergarten is free and Kindergarten has a reduced, private fee of \$260 per month. Mr. Hopstein asked how many children would be attending the preschool; Ms. Ewing replied that 100 students would be attending. Mr. Solomon asked about the entrance and Mrs. Ewing replied that there is an entrance in the back of the building on North Madison Avenue for driving parents. The entrance in the front on Main Street is for the parents who walk their children to the center. Mr. Grossman asked where she teaches now. Ms. Ewing currently teaches in New City. The hours of operation of the daycare center would be from 8:30 am until 4:30 pm.

Mr. Goodman asked about lighting in the entry area and Mr. Licata agreed that the applicant or the landlord would provide lighting in the rear of the building. Ms. Patrick expressed concern over liquor served in the same building as a school. Ms. Ewing suggested having a signed agreement from the downstairs occupants asserting the non-sale of alcohol between the hours of 8:30 am and 4:35 pm. Mr. Booker asked about the emergency door in the rear of the building and whether or not it will be open or used as an emergency exit. The owner of the building, Mr. Weiss, agreed with the designation of an emergency exit.

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Mr. Booker made the distinction that a bar is not adult-based establishment and furthermore there is no "bar" sign. Mr. Hopstein offered the suggestion that if a daycare is built then maybe the owner can later find another tenant to occupy that space. Ms. Ewing said that her tenancy comes with the condition of having the option to buy, so if the tenant does not comply, the lease will not renew once it is up.

Ms. Patrick asked if anyone would like to have alcohol served in the same building where children attend school. Mr. Grossman suggested erecting a fence and Ms. Ewing acknowledged it as being something she will have to do. Mr. Grossman wanted to ensure that bar patrons would not be able to enter the daycare center's stairwell.

Ms. Lewis testified on the applicant's behalf as a parent of two children who attend Ms. Ewing's daycare center. She felt that Ms. Ewing does a great job, improved her children's reading and mathematic abilities, and knows her children are safe in Ms. Ewing's care. Lastly, Ms. Lewis hopes the Board approves the application.

Mr. Booker understands the concerns of those opposed to the application and stated that there needs to be a condition but it would be hard to enforce. Mr. Hopstein suggested the installation of a system to buzz in parents and students, and that it should be a condition of the application. Mr. Licata agreed to have that installed prior to the opening of the daycare center and Mr. Weiss will contact Mr. Booker for an inspection. Mr. Booker's final question was about the ages of the students. Ms. Ewing answered that the children are aged three, four, and five years old.

On a motion by Ms. Patrick and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Solomon and seconded by Mr. Sicard, the variance was approved 4-1. Ms. Patrick could not vote in favor due to the service of liquor around children, and would not make a decision in favor with that on her conscience.

**8. CONTINUATION OF PUBLIC HEARING: 21 GROVE STREET - JJJ
CONCRETE**

The Building Inspector, Walter Booker, read the Particulars. This is a continuation of a public hearing for JJJ Concrete, 21 Grove Street. The location is on the north side of Grove Street, 120 feet east of North Myrtle Avenue and Grove Street. The applicant is seeking a use variance to allow an Auto Repair Shop.

Mr. Katz sent a letter informing the applicant about the proof needed in order to obtain a use variance. Mr. Katz asked the Village Assessor to review the applicant's 2009, 2010 tax returns, but had not received a response. Mr. Licata referred to the tax returns as proof

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of financial loss. He insisted that the parking area is shielded, always spotless, and well maintained. Mr. Hopstein asked how many cars would be stored on the lot and the owner of the building, Mr. Jack Almeida, assured the Board that the tenant would not store more than three cars on the lot at a time. Mr. Almeida has a business next store so he can assure tenant compliance.

Mr. Hopstein and Mr. Sicard asked how long Mr. Almeida has been in business, to which Mr. Almeida replied that he has been a business owner and had ownership of the building for thirty-three years. Mr. Licata added that the store is hidden from view from Myrtle Avenue. The only changes made were to the interior and none made to the exterior. Mr. Sicard was concerned about the business' ability to stay in the same trend and avoid a loss in revenue. Mr. Licata hopes the additional rent will produce a positive return instead of a negative return, but does not have a guarantee.

Mr. Solomon asked for the monthly, rental amount. Mr. Licata replied \$3,000.00 and reminded the Board that the only person who has attempted to rent this place is the auto repair shop. Mr. Sicard said that before entering into business you must be sure of what the market is like and what to expect. Mr. Solomon asked how long it has been listed. Mr. Licata testified that it had been listed for two years. He believes it will not change the character of the area because of the obstructed view from the street. The property is spotless and will not be a business you drive by and see garbage and old parts littered outside. The hours of operation will comply with the code requirement, Monday through Friday, Saturday 9am - 5pm or 8am - 6pm.

Mr. Sicard asked for the tenant and wanted to know why the tenant was not present. Mr. Booker told Mr. Sicard the owner is required to make the presentation of his case, not the tenant. Mr. Licata answered that it is Mr. Almeida's obligation to prove his case, not the tenant's and the tenant does not have the standing to come before the Board. Mr. Sicard asked for the owner of the proposed shop's name. Mr. Almeida could only recall his first name, Angelo. Mr. Sicard said his vote would be a no because he thinks it is a huge loss. Mr. Licata asked Mr. Sicard for an opportunity, adding if he votes no then the applicant will definitely lose money this year. Mr. Licata said if Mr. Sicard votes yes and the auto repair shop is successful then he is a hero.

On a motion by Mr. Hopstein and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Grossman and seconded by Mr. Hopstein, the variance was approved unanimously by the Board 5-0.

Mr. Grossman exited the meeting.

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**9. CONTINUATION OF A PUBLIC HEARING: CONGREGATION BAIS
MEDRASH**

This is a continuation of a public hearing for Congregation Bais Medrash. The location is on the east side of Route 45, zero feet south of its intersection Funston Street. The applicant is applying for a variance to allow the construction of a seminary, with the dormitory as an accessory to the seminary.

According to Mr. Booker, the application was amended. There is a proposal to put modular trailers in the front yard on Main Street during construction. Mr. Booker deferred to Mr. Katz to explain the variances. Mr. Katz stated that both lots are in the POR zone. The Planning Board granted a negative declaration in December 2010. The Village Board granted a special permit and the Planning Board issued a negative declaration.

The County's Department of Planning recommends a disapproval of the application because the applicant provided 1,300 square feet for 18 beds as opposed to the minimum of 1,800 square feet per dormitory bed requirement. The parcel cannot accommodate fifty students and the parking calculation is incorrect. Out of the proposed 9,698 square feet, it is unclear as to the amount dedicated to the seminary and the amount dedicated to the dormitory. The County calculated a minimum of thirteen and maximum of fifty parking spaces required so the parking is deficient. A 50' buffer between the dormitory and the adjacent home was not provided to satisfy the requirement.

Mr. Booker asked if the modular trailers are for sleeping. Mr. Licata said the modulares are for studying. Mr. Licata said the letter has to be wrong in saying there is a 1,800 square feet per bed requirement because his first two bedroom/two bathroom apartment when he first got married was not 1,800 square feet; there is no way it can be 1,800 square feet. Mr. Licata deferred to the Building Inspector to know if 1,800 square feet is excessive. Mr. Booker stated the Village of Spring Valley requirement is 80 square foot for a single bedroom, 120 for a two-bedroom, and 180 for a three-bedroom. Mr. Licata thought maybe 1800 was meant for three students and wanted everyone to agree that 1,800 is not correct, adding that Mr. Booker pretty much confirmed it. Mr. Booker has not seen that letter. This letter is to the Planning Board, the other is to the ZBA. Mr. Katz said it may be a typographical error, but he cannot confirm that.

Mr. Sicard asked if he could leave because he has to go home. Mr. Hopstein asked him to stay for a couple extra minutes since there were only three applications left. Mr. Sicard was unable to remain and exited the meeting.

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Mr. Licata knows the letter was incorrect. The letter was addressed to the Spring Valley Village Board and that letter was addressed to the Spring Valley Planning Board. He knows the Village Board gave an override 5-0 because they gave the application a zone change and special permit. Mr. Katz cannot find a letter in his file and there is no letter in the zoning file so therefore there is no override necessary. That would require three votes, not four. Mr. Katz asked if the application received a negative declaration and Mr. Licata replied yes.

Mr. Katz asked the Building Inspector if there is anything stating a fifty-foot setback requirement. Mr. Booker said typically, building code determines separation between buildings based on construction. He could not recall, so he could not say it with conviction and would have to investigate. Mr. Hopstein asked if Mr. Licata needed to add anything. Mr. Katz asked Mr. Licata to state the variances he believes are necessary to proceed with the application. The variances are: Lot Area 25, 000 square feet required, 23, 400 square feet requested; Front Yard: 35 feet required, 16 feet proposed; Side Yard: 20 feet required, 15 feet proposed; Rear Yard: 40 inches required, 39 inches proposed; Floor Area Ratio: .30 allowed, .22 proposed; Parking Spaces: 10 spots required, 5 spots requested; Students: 13 permitted, 37 proposed; Distance between dorm and driveway: 25 feet required, 11 feet requested.

Mr. Licata made the distinction that this is not a regular school. These are not little kids; they are older kids. They are 18 years old adults, the equivalent of a college student. They study, eat, and sleep there, attend daily services also on holidays. They do not own cars or have driver's licenses. They stay there the entire time, with the exception of going home during the holidays when school is closed. There will not be buses coming and going or parents picking up and dropping off students. The students are 18 years old and allowed to stay on their own, so the faculty members go home. The bottom line is parking should not be a problem. Only the teachers need parking spaces and there are never more than two teachers there at one time.

Mr. Katz gave the applicant the option to postpone the hearing to next month. Mr. Booker instructed the applicant to amend the application to include the three modular trailers with the two principal buildings on the lot. Three votes are needed because the County recommendation was not sent to this Board. Mr. Licata answered by saying the Village Board and the Planning Board considered the application and decided that they wanted the application to proceed. Mr. Licata stated the applicant's need for the approval of the temporary modular trailers, and said once everything is completed and built they will remove them. Mr. Licata believes the County is way off and there could be no way it is 1,800 feet.

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The application was filed initially on Oct 7, 2010, thereby making it a year soon. The applicant really needs to get the shovel in the ground and start building. It has taken so long to get through the Village Board and almost a year because the application had to go before the Planning Board. It took about three or four months to get through the Village Board.

The applicant was hoping to be operational by September but Mr. Licata advised them it will not happen even if granted approval tonight because they would still have to go before the Planning Board at least two more times in August and September . They will have waited a whole year if the meeting is adjourned tonight because they will have to wait to get approval in October, and by the time they are able to build, the weather might prevent construction. Then they are almost into another school year. These are the applicant's problems, although the Village Board approved it and changed the zoning for the application.

Mr. Licata concluded asking if the applicant closes the meeting then the missing Board members would not be able to ask questions, thus creating a serious hardship for the applicant. Mr. Booker advised the applicant to leave the meeting open. Mr. Licata asked if the Board could at least agree to approve the temporary modular trailers tonight so they may do their business. Mr. Booker replied that the temporary modulars must be included in the site plan. Mr. Licata thought it was only up to the ZBA.

The matter was continued to August because there were only three ZBA members remaining, therefore, not enough votes to approve the variances.

Mr. Hopstein asked the Board if they should continue with the next applications. Mr. Booker's opinion was that the following applications were minor. Mr. Katz suggested continuing and getting the applications approved since the applicants have appeared and were present during the entire meeting.

10. CONTINUATION OF A PUBLIC HEARING: 36 DANA ROAD

This is a continuation of a public hearing for 36 Dana Road. The location is on the east side of Dana Road, 80 feet south of Blueberry Hill. The applicant is seeking variances for the erection of an addition to the north side of an existing, single-family dwelling. The variances sought are as follows: Front Yard 25' required, 23.9' proposed; Side Yard: 15' required, 7.6' proposed; Total Side Yard: 30' required, 29.3' proposed. The applicant also plans to enclose the previously constructed garage space, thereby requiring a parking in the front yard variance unless he constructs a driveway to the side of the building.

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Mr. Katz stated that the public hearing had been opened and all mailings, publications, and postings were received and confirmed. The only thing he added is that the type two SEQRA application and an environmental review is required. The applicant, Shimon Landau of 14 Zeissner Lane, appeared and provided the Board with an explanation of the additions to the house (inaudible). Mr. Katz suggested two ways to look at front yard parking. The applicant receives a variance if the Board approves and if the Board does not approve, the applicant has the alternative of parking on the side of the house. Mr. Hopstein asked the applicant if there is an application for a parking variance and also if there is another house on the corner. Mr. Landau answered (inaudible) and said there is another house on the corner. Mr. Walter asked if the driveway is two cars wide, the applicant answered yes.

Mr. Booker said one would normally park in front of the garage and if Mr. Landau constructed walls where the garage is he would still be parking in the driveway, but technically, it is parking in the front yard variance. Mr. Katz asked if the applicant would agree to park one car on the side of the home. Mr. Booker cited building code that says if there is a garage but you choose not to open the door and park two cars in the driveway, you are parking in the front yard setback. If you have a driveway on the side of the house then you eliminate the need for a front yard setback. Mr. Landau told the Board that he usually has only one car that he will park in the driveway at a time. Mr. Katz answered that if the house is sold the next day, somebody else may have three cars.

On a motion by Mr. Solomon and seconded by Ms. Patrick, the public hearing was closed. On a motion by Mr. Solomon and seconded by Ms. Patrick, the variances were approved by the Board 3-0. Mr. Hopstein noted the application is not asking for a parking variance and the rest of the variances are minor, and the variance will enhance the neighborhood.

11. PUBLIC HEARING: 9 ZEISSNER/GOLDMAN

The Building Inspector, Mr. Booker, read the Particulars. This is an initial application for a public hearing for 9 Zeissner Lane also known as Goldman. The location is on the north side of Zeissner Lane, about 275 feet west of its intersection with Frances Place. The applicant is seeking a variance to construct an addition to the residence consisting of a living space below an existing floor. The variances are as follows: Lot Area: 8,500 sq. ft. required, 5,074 sq. ft. proposed; Lot Width: 80' required, 77.8 proposed; Floor Area Ratio: 0.65 allowed; 0.74 proposed.

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On a side-note, Mr. Booker explained that because the property is in a flood plain there is a lot area deduction. The lot area is actually greater than listed. Mr. Booker added, for consideration by the Board, that there is more lot area than the bulk table describes.

Mr. Katz stated this is the initial public hearing on the application seeking variances. The Village Board did grant a special permit. The applicant has rooms on the first floor on stilts. He wants to build under the area that is up on the stilts. The applicant wants to remove the stilts, and put in a living space under this area. The applicant is not changing the footprint of the house very much but the changes affect the ratios. In other words, the house would be the same except instead of having stilts on the first floor the applicant is putting in rooms.

Mr. Booker further explained Rabbi Goldman's proposal to expand a few feet beyond the footprint of the building. If Rabbi Goldman had not done that, he would not have to appear before the ZBA. The Floor Area Ratio would be the only variance the applicant is creating and all the other variances are pre-existing. According to Mr. Booker, the applicant would not have to be here if he chose not to add the extra couple of feet, which is insignificant in the scheme of things. The footprint change is very slight and insignificant. It only occurs in the back and on the side by maybe two or three feet.

Mr. Hopstein asked for the current variance. Mr. Booker answered that the applicant has a preexisting non-conformance for lot area and lot width with maybe one setback. If you do not increase the number of variances, appearing before the ZBA is not required. If you are doing construction and you do not increase the degree of non-conformity, then you do not need a permit. Once you have increased the degree of non-conformity, all the pre-existing variances before must be considered. A new variance is triggered with the Floor Area Ratio, so the lot area and the lot width must be mentioned.

Mr. Hopstein asked if the Floor Area Ratio resulted from the extra feet on each side of the property and if it was reduced because of the floodplain. Mr. Booker answered yes; it increases the Floor Area Ratio proportionately. If it were not in a floodplain, it would be calculated towards its lot.

Mr. Katz provided the following summary. The lot area required is 8,500 square feet. The lot area reduced is 5,074 square feet because the property is located in a floodplain. Without the reduction, it is still 10,148 square feet. There is a 50% reduction. The lot width variance is a little more than 2 feet (existing); the Floor Ratio allowed is .65. The Floor Ratio increases to .74 because of the extra feet on the both side of the property. It is only up that high because of the reduction to 5,074 square feet, instead of what exists 10,148 square feet.

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Mr. Booker asked the applicant, Mr. Jacob Goldman, how his home was affected in the aftermath of the flood. The flooding did not reach his home. Mr. Hopstein asked if any members of the Board had additional questions for the applicant; none of the ZBA members had any additional questions.

On a motion by Ms. Patrick and seconded by Mr. Solomon, the public hearing was closed. On a motion by Mr. Solomon and seconded by Ms. Patrick, the variances were approved by the Board 3-0. Mr. Katz instructed the applicant to speak with the Village Clerk regarding a new mailing and posting for the next Planning Board meeting on August 4, 2011.

On a motion by Ms. Patrick and seconded Mr. Solomon, Vice-Chairperson Hopstein closed the meeting at 10:20 pm.