

**VILLAGE OF SPRING VALLEY
ZONING BOARD OF APPEALS
SEPTEMBER 14, 2011**

A Regular Meeting of Spring Valley Zoning Board of Appeals was held in the Board Room of the Village Offices on Wednesday, September 14, 2011.

PRESENT: Pat Caldwell, Chairperson

Members: Eli Solomon
Gerard Sicard - Absent
Martha Patrick
Moshe Hopstein
Asher Grossman

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

Chairperson Caldwell called the meeting to order at 7:08 PM.

CORRECTED MINUTES OF JULY 13, 2011

On a motion by Mr. Solomon and seconded by Ms. Patrick, the Board voted unanimously to approve the corrected minutes of July 13, 2011.

MINUTES OF AUGUST 10, 2011

Chairperson Caldwell asked to delay the approval of the August 10, 2011 minutes pending review of format.

PUBLIC HEARING

**CONTINUATION OF PUBLIC HEARING: 251 WEST CENTRAL AVE./
CHURCH OF GOD OF PROPHECY**

The Building Inspector, Mr. Booker, read the Particulars. This is the continuation of a 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. Parking in the Front Yard Setback would be required. Counsel provided a narrative explaining a parking arrangement with the school district. Mr. Katz confirmed having received a copy of the narrative parking agreement and has no further comments.

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Attorney, Ira Emanuel, appeared on the applicant's behalf and wishes to augment the narrative he provided to the Board in respect to parking. Parking arrangements have been made with the East Ramapo School District's Spring Valley High School, approximately a half mile away from the site. It is an uphill walk but can be done. The elderly and handicap would park on the side of the site, where as all other congregants would park down at the high school. The applicant received a permit from the school district allowing parking; the district issues permits on a school-year basis. This permit will begin in June 2013, the anticipated opening date of the new facility. Assuming the variances are granted by the ZBA, the applicant would then have to appear before the Planning Board. The earliest the Planning Board would be able to grant site approval would be at the November meeting. An asbestos abatement would be necessary because the building is very old, and there needs to be construction and fundraising. The new building will probably not be open until June 2013, which explains the date of the permit. The permit would continue after June 2013, into the 2013-2014 school term. The district agrees to provide continued parking beyond that, but as a matter of policy, they will not enter into a long-term arrangement. It will be a Sunday use and the applicant is comfortable with the arrangement.

Chairperson Caldwell's only concern was parking, but she had a question about the address listed as Route 59. Mr. Booker informed the Board that Route 59 has three different names: 59, Central, West Central, and then Alturas turns back into 59. There is a September 8, 2011 letter from the County Department of Planning making recommendations. Mr. Katz clarified that the letter does not refer to the current application and is a letter concerning an agenda item for the next ZBA meeting.

There was no further testimony from the public or questions from the Board. On a motion by Mr. Hopstein and seconded by Mr. Grossman, the Board voted unanimously to close the public hearing. On a motion by Mr. Hopstein and seconded by Mr. Grossman, the Board voted unanimously to approve the requested variances.

CONTINUATION OF PUBLIC HEARING: 7 Morris Road/ Juda Rosenfeld

The Building Inspector, Mr. Booker, read the Particulars. This is the continuation of a public hearing for 7 Morris Road/ Juda Rosenfeld. The location is approximately 100' north of the intersection of Haera Lane and Morris Road. The applicant seeks a variance for the construction of a two-family dwelling with less than required minimum Lot Area, Lot Width, Front Yard, and Rear Yard. The variances required are: Lot Area: 8, 500 square feet required, 7, 890 square feet provided; Front Yard: 25 feet required, 21 feet provided; Rear Yard: 20 feet required, 15 feet provided; Width (Morris): 90 feet required, 75 feet provided.

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Mr. Katz reminded the Board that last month a neighbor objected to a rear yard variance and suggested keeping trees and bushes to provide a buffer that would continue to give her privacy. At least one Board member suggested putting in a dry well to prevent flooding. The Board wanted to view preliminary plans prior to making a decision.

Attorney, Ryan Karben, appeared as the representative for the applicant and reiterated that the building plans were presented to the Board. The applicant does not have a problem with complying with the Board's recommendations. The Board asked the applicant to consult with the architect to see if the building can be reconfigured to move the decks to the other side. It does not work with the layout, electric, etc... and that would cut significantly into the living space. The layout is a typical townhouse layout. They were not able to come up with an architectural solution to deal with it. Mr. Karben did try to reach out to the neighbors that had concerns with the application, in order to address specific concerns. There was a generalized objection to having this type of housing in the area, but the Village Board permits it. This type of housing is permissible and the applicant is in compliance.

Chairperson Caldwell's concern was with parking and that there is no accommodation for a garage. Mr. Karben answered that parking is provided, as according to the code, and adding a garage would significantly cut into the occupant's living space. If it is a make or break issue then Mr. Karben would be happy to consult with his client to see if it can be revisited. Mr. Booker said the parking layout would require two driveways; a basement cannot be put in this area. Mr. Katz clarified that the dry wall request is for the next application. Mr. Karben insisted that they would comply with what is asked on the application.

Rhona Flaumenhaft, 1 Dorset Road, is an adjacent property owner whom appeared, in opposition to the proposed site plan, last month. Many things surprised Ms. Flaumenhaft at the last ZBA meeting. She testified that the map had only one property marked on it, and that until she told them; the other neighbors were unaware that a house would be built behind them. There were not any signs to inform the neighbors about the ZBA meeting posted on the proposed site, and the description of the properties made it impossible to distinguish one from the other. Mrs. Flaumenhaft pointed out that the square footage is off, and describes the process as confusing and unclear, which she wanted to bring to the ZBA's attention.

Chairperson Caldwell provided Ms. Flaumenhaft with an explanation about the mailing process. She acknowledged receiving the mailing, but only received one map, not two. She also stated that no one knew two different lots were involved. Mr. Grossman, whom lives in the area, received two maps and two letters from the applicant.

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Mrs. Flaumenhaft felt misled in that she was not informed that two-family houses are not allowed in the area. She did not understand the square footage requirements that are required and being proposed. Mr. Katz explained the purpose of ZBA meetings in that the applicant may ask permission for variances on properties. Mrs. Flaumenhaft explained that there are only three, three-story houses in the neighborhood, but none within 15 feet of someone else's backyard. She believes the height influences backyard and front yard. There are water problems in the area. She had pictures of the property without a posted sign. Mrs. Flaumenhaft presented pictures of flooding that took place with trees still in place and pointed out that if the front and back yard are diminished, the footprint of the house enlarged, and more trees are removed will result in worse flooding. She presented pictures of her backyard and made the argument that a 15-foot deck in the lot would end on the property line, only 10 feet from her deck.

Mr. Hopstein asked for clarification on what is permissible by Village Code. Mr. Booker stated that there is a preference for having a five-foot boundary between a structure and the property line. There are clearance issues for fire and emergency personnel, egress, etc....

Mrs. Flaumenhaft asked the Board to view her pictures. She thinks it is unreasonable to build a house as big as possible without considering neighbors, and that it is unreasonable to build a large house on a small lot. She is protesting the back yard variance; if she has a twenty-foot backyard then her neighbor should have a twenty-foot backyard. She preferred the applicant make the house to fit the footprint and proper for the lot size. Mrs. Flaumenhaft mentioned her right to appeal the ZBA's decision under Article 78. Her last statement is how unfair it is to take a small lot and make a house that big, instead of building a smaller house.

Chairperson Caldwell explained that the ZBA purpose is to all applications where the applicant asks the ZBA to put aside the regulations and allow variances. She told Mrs. Flaumenhaft that the applicant has the right to make the application. Chairperson Caldwell accepted Mrs. Flaumenhaft's pictures and allowed the Board to review them.

Amy Rosenthal, 3 Morris Road, is also a neighbor in opposition to the application. She has resided here for over 25 years and thinks it is important to keep the code in place. She does not believe she should apologize for her opposition, and in wanting the neighborhood to be clean and without monstrosities. She does not understand why the existing neighbors are on the defensive. Lastly, Mrs. Rosenthal stated that their neighborhood is just not interested, although other neighborhoods may be.

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Mr. Avrohom Seidman, 3 Dorset Road, also appeared in opposition to the application. He was not present at the last meeting because he did not realize that one of the properties is located in the back of his house. The letter was confusing and the sign was not posted on the property line where one could see it. He cannot distinguish which property is which on the map, and asking the hearing's adjournment, so he may do his homework.

Mr. Hopstein asked Mr. Booker to explain the posting of signs. Mr. Booker explained that when an application is received, a copy is given to the Legal Department. The Legal Department drafts a legal notice and gives it to the Clerk's Office. The Clerk's Office compiles a package including a poster, the letter from the Legal Department with the particulars of the zoning application, an affidavit of posting, and an affidavit of mailing. The Clerk's Office posts a public notice in the newspaper. When proof of mailing and posting via the mailing affidavit are received from the applicant, it is considered proper notice. However, that requires a posting on the site, a mailing to everyone within 500 feet of the subject property, and a publication in the newspaper. Our proof is the affidavit. The poster is supposed to be prominent on the site and visible from the street. Mr. Katz added that the posting must be completed for the application's first meeting; there is no requirement for another posting. If someone comes in and says it was not posted then it becomes a factual matter for the Board to decide.

Mr. Seidman insisted that he did not see the sign. Chairperson Caldwell told Mr. Seidman that the applicant provided an affidavit and the Board will acknowledge it. She further stated that although the letters may be misleading, the applicant might have an explanation. Chairperson Caldwell asked the neighbors, the applicant, and Mr. Karben to make a commitment of sitting down and attempt to work something out. Mr. Karben responded by stating the applicant receives the letter from the Village Clerk's Office. The Village Clerk requires a letterhead and phone number to be placed at the top of the letter. If it was confusing, his office number was on the letter and they could have called him with questions. The applicant does not prepare the letter or change a single word, only makes a copy of the letter with the company letterhead. The posting was on the site, as required by the Village statute, and the applicant complied and met every specification. Mr. Karben could not say why the Village Clerk's Office writes the letter that way.

Chairperson Caldwell would like to postpone and come into an agreement with all involved. Mr. Karben said he tried to make contact and speak with them about their concerns, but they preferred to come to the meeting instead. He said the application has opposition for a non-existent, 15-foot deck that is not part of the application or provided in the plan submitted to the Board; it is an 8-foot deck. The applicant is required to construct a drainage system to the satisfaction of the Village's set requirement. She further stated that the Village does not allow a deck to be constructed on a property line or to cause additional drainage problems. Mr. Karben wants the neighbors to know that

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the construction of a 15-foot deck out to the property line is not in the plan, nor do they want to cause additional drainage problems. He is trying to identify the issues in order to accommodate the neighbors; everything has been done 100% properly.

The neighbors are concerned about the size of the structure. Chairperson Caldwell has an issue with parking. She wants a commitment from the applicant and the neighbors to sit down, meet, and work it out, thus adjourning this hearing for another month. Mr. Katz reminded them that they do not have reach an agreement, and will still have the opportunity to address the Board at the October ZBA meeting. It does not hurt to try.

The public hearing is adjourned to the October 11, 2011 ZBA meeting.

CONTINUATION OF PUBLIC HEARING: 1 Haera Lane/ Congregation Khal Torath Chaim

This is the continuation of a public hearing for 1 Haera Lane/ Congregation Khal Torath Chaim. The location is on the intersection of Haera Lane and Morris Road. The applicant is seeking a variance for the construction of a two-family dwelling, with less than required minimum Lot Area, Front Yard, and Rear Yard. The variances required are: Lot Area: 8, 500 square feet required, 8, 077 square feet provided; Front Yard: 25 feet required, 10.2 feet provided; Rear Yard: 20 feet required, 15 provided.

Last month, adjacent neighbor, Rhona Flaumenhaft, objected to the rear yard variance and Mr. Karben, the applicant's attorney, agreed to leave trees or a buffer to provide her with continued privacy, and a dry well to prevent flooding. The Board requested preliminary plans.

Mr. Booker agreed to delineate which properties are involved and will notify those who appeared this evening. The public hearing is adjourned to the October 11, 2011 ZBA meeting.

PUBLIC HEARING: Monsey Lumber/ Goldberger

The Building Inspector, Mr. Booker, read the Particulars. This is a public hearing for Monsey Lumber/ Goldberger. The location is on the north side of Homer Lee Avenue, approximately 130' east of its intersection with Route 45. The applicant seeks a variance to construct a commercial warehouse building. The variances required are: Lot Area: 10, 000 square feet required, 5, 000 square feet provided; Lot Width: 100 feet required, 50 feet provided; Side Yard: 10 feet required, 0 provided; Total Side Yard: 20 feet

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required, 0 provided; Floor Area Ratio: 0.3 permitted, 0.8 requested; Parking: 7 spaces required, 3 spaces provided and they are in the front yard setback.

Mr. Katz acknowledged that the Village Board granted a zone change of a portion of the lot from R-2 to GB and granted a special permit to construct a warehouse in the GB zone; other than that he did not having anything to add.

The applicant, Alex Goldberger, 168 North Main Street, appeared before the Board. The business has been operating for the past 37 years. He described the area as a small piece of property. He sent out over 70 mailings asking the neighbors in either support or opposition, to attend the meeting. There were modifications made to the property five years ago with the Village Board and Zoning Board recommendation, in which they opened up a fence for trucks to enter on Ohio Avenue and exit the on Homer Lee Avenue, thus alleviating traffic back up on Route 45. However, the resulting problem was lost storage space. That is the reason for the variance requests. There is an uninhabitable house just opposite of the entrance of Monsey Lumber, for which they are proposing to build a smaller warehouse for storage and truck maintenance.

Mr. Goldberger said most properties on Route 45 have turned into commercial properties. The Village Board granted them a zone change to GB and issued a special permit to operate commercially. The warehouse would go towards the back, on the property line. A portion of the existing structure is on the property line, and to the right of the property is an existing body shop that is also on the property line. He believes it will fit in the neighborhood. There were several requests made by the Village Board and Planning Board regarding the drainage for which the engineer, Mr. Atzl, is present.

Mr. Hopstein asked for an explanation of the building type. Mr. Goldberger answered that it would be a spitting image of the building across the street. Chairperson Caldwell does not understand why this request is made now, when additional office space was requested in their first appearance before the Board. Mr. Goldberger answered that it is because they lost storage space resulting from the modifications made on the property two years ago.

Mr. Booker asked if the storage would be used for hardware or lumber. Mr. Goldberger answered that it would store more finished products such as nails, screws, and things that have to be stored inside. Chairperson Caldwell asked why the applicant could not just move the offices and continue to use the main lot for keeping lumber. Mr. Goldberger explained that with the way the business runs with people coming into the yard, the office is needed to keep watch, the office is far away, and the fence is always open. There is more parking in the area. Ninety percent is storage and ten percent is office space and bathroom. Chairperson Caldwell called it an extensive request, of almost double of what

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is permitted. Mr. Goldberger is just replacing the existing structure with a better structure. Chairperson Caldwell countered that when the structure was built there were not any guidelines as we have today, and that's why the existing structure is on the property line. There is no justification to knock it down and then use the same footprint.

Mr. John Atzl, 234 North Main Street New City, is the surveyor for this application. He said they received a negative declaration through the Planning Board and there is a zero increase in run-off. The minimum front yard is 15 feet and rear yard is 20 feet, by pushing the building all the way back to the rear, providing zero rear yard, they are providing 40 feet front yard that exceeds the 35 feet combined total of both of those. The applicant is providing three parking spaces in the front yard. It is maintenance free, there is access to the roof and there is access from the front. Even though it is wall-to-wall, it seems to fit very cleanly. Minimum side yard is 10 feet on each side but they are asking for zero, asking for 5 feet would become more of a problem; there would be maintenance issues with leaves and garbage flying around.

Chairperson Caldwell's concern is with the side yard, especially on the side of a garage. Mr. Atzl answered that the roof run-off will go directly into the pipe system in the front, and the pipes will be underground. Mr. Booker suggests making it front to back and not side to side, providing a more residential look. Mr. Atzl insisted that there would not be any roof run-off. The other issue was with drainage for which the Planning Board issued a Negative Declaration. (Inaudible)

On a motion by Mr. Hopstein and seconded by Mr. Grossman, the public hearing was closed. On a motion by Mr. Hopstein and seconded by Mr. Grossman, the requested variances were granted. The ZBA voted 4-1, with Ms. Patrick voting in opposition.

Chairperson Caldwell approved the requested variances as long as the applicant adheres to the drainage just discussed and based on the recommendations and need for additional commercial space.

PUBLIC HEARING: 14 Twin Avenue/ Oberlander

The Building Inspector, Mr. Booker, read the Particulars. This is an initial public hearing for the application of 14 Twin Avenue. The location is on the east side of Twin Avenue at its intersection with Shevchenko Place. The applicant seeks variances for the erection of a two-family dwelling in an R-2 Zone. The variances are as follows: Lot Area: 10,000 square feet required, 6,249 square feet provided; Lot Width: 100' required, 50' provided; Side Yard: 15' required, 10' provided; Total Side Yard: 30' required, 20' provided; Street Frontage: 70' required, 50' provided; Parking in the Front Yard: 0 required, 3 provided.

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Mr. Booker stated that it is a mirror image of 12 Twin Avenue. Mr. Richard H. Sarajian appeared as the attorney for the applicant and confirmed that the application is a mirror of #12, and a very nice addition to the area. The same variances were granted in 2006. This is a pre-existing lot. The existing building has the same footprint as the proposed two-family home. The applicant is unable to get land from either side to increase the lot. The request for the variance for the street frontage, the lot width, and lot area is due to the plan of knocking down the existing house. The ZBA needs to re-verify the existing conditions for these. The applicant wishes to build a 30 feet wide building, while the existing structure is 28 feet wide. There is a practical difficulty in building a 20-foot wide structure. (Inaudible) The front yard setback of the existing building is about 18 feet. The applicant is providing a setback of 32 feet, where the current one is 15.4 feet. The plan includes moving the existing building back by 17 feet to comply with the front yard setback so the three parking spots can fit. Currently in the rear yard, about 2 feet from the property line, is a shed that will be demolished as part of the plan. Thus, no rear yard variance or FAR variance is being requested. The structure will be an up/down with a side-entrance for the second floor unit. There will be a full rear yard required by code. The request is just to re-verify all the existing conditions when the house is rebuilt and have the variances granted for the parking in the expanded front yard.

Chairperson Caldwell asked why the building cannot be brought forward with parking in the rear, noting that the street is congested in both foot and car traffic and difficult to navigate in the morning and afternoon, adding that there would be too many children and baby carriages passing by all throughout the day. Mr. Sarajian answered that there is enough room to back and out and go out forward; there is at least a 30 feet area between parking to do so. Mr. Booker needs at least one for each unit if it is a straight up and down driveway. The way it is interpreted is, if there is a two-family house it requires four spaces, but you have only one unit possibly having a parking spot beyond the setback. Mr. Sarajian believes that the better alternative is to pave less of the area and give the applicant's children a backyard to play in, resulting in less of a chance of having an accident in the front yard. The older building has been up for four years without any complaints.

On a motion by Mr. Solomon and seconded by Mr. Hopstein, the public hearing was closed. On a motion by Mr. Hopstein and seconded by Mr. Gross, the variances were approved 3-2, with Chairperson Caldwell and Ms. Patrick voting in opposition.

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PUBLIC HEARING: 74 North Cole Avenue/ Kraus

The Building Inspector, Mr. Booker, read the Particulars. This is the initial public hearing for the application of 74 North Cole Avenue. The location is on the east side of North Cole Avenue, approximately 246 feet south of its intersection with Maple Avenue. The applicant seeks variances for the erection of a two-family dwelling in an R-2 zone. The variances are as follows: Lot Area: 10,000 square feet required, 5,750 square feet provided; Lot Width: 100 feet required, 50 feet provided; Front Yard: 25 feet required, 20 feet provided; Side Yard: 15 feet required, 10 feet provided; Total Side Yard: 30 feet required, 20 feet provided; Street Frontage: 70 feet required, 50 feet provided.

Mr. Katz did not have anything to add. Mr. Ryan Karben appeared as the applicant's attorney, stating that there has been a lot of redevelopment in the R-2 zone. This application is a proposed two-family home. The dimensions of the lot are existing as found. The Board has approved similar variances in the area, including 29 Collins Avenue, item number 10 on the agenda. The Village Board has chosen to amend the zoning code to permit two-family construction. Safe ingress and egress have been provided. The new construction will provide adequate play area for children and access to the property. There is a challenge with building on these properties because they are all long and narrow. The application is consistent with the R-2 zoning code. The applicant is seeking to meet construction objectives with as little variances as possible.

Mr. Booker stated that this a three-story proposal and asked if there is any architectural incentive to sink the basement or first floor at the ground level, and Mr. Karben believes that is accurate. That leaves us with two stories fully involved with the Floor Area Ratio. Mr. Booker ran a quick calculation and came up with a two-story calculation of 4,352 square feet based on the profile of the lot versus the outline of the building. There is not any knowledge of the stair's configuration, but there would have to be substantial stairs to cut down 65 percent of the lot area indicated on the Floor Area Ratio. Mr. Karben insisted that the Floor Area Ratio would not be exceeded and it is a precaution to be safe sometimes to submit the highest calculation possible, rather than making multiple appearances before the ZBA if anything changes at all. Mr. Karben reasoned that it is better to be more conservative. Mr. Hopstein asked if parking is going to be on the side. Mr. Karben confirmed it will be in order to maintain the integrity of the front lawn and so that it lines up with the other front lawns on North Cole.

On a motion by Mr. Hopstein and seconded by Mr. Solomon, the public hearing was closed. On a motion by Mr. Hopstein and seconded by Mr. Solomon, the variance was granted 3-2 with Ms. Patrick and Chairperson Caldwell voting in opposition.

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OLD BUSINESS- REAPPROVAL: 29 COLLINS AVENUE

The applicant did not appear. Chairperson Caldwell stated that the application will have to be withdrawn and the applicant will have to reapply. If they are running out of time, it is on them. They did not make any phone calls and did not show, so the board is not obligated to hear them or continue.

On a motion by Mr. Hopstein and seconded by Ms. Patrick, Chairperson Caldwell closed the meeting at 9:30 pm.