

**Village of Airmont
Zoning Board of Appeals
Village Hall
Thursday, September 13, 2018**

MEMBERS PRESENT: MARTY KIVELL, CHAIRMAN
ARTHUR KATZ
CHARLES PICARELLI
LAURIE DIFRANCESCO
LINDA CARBONE, AD HOC
MATT RYAN, AD HOC

MEMBERS ABSENT: SCOTT MEIER

PRESENT: DAN KRAUSHAAR, DEPUTY VILLAGE ATTORNEY
LOUIS ZUMMO, BUILDING INSPECTOR
SUZANNE CARLEY, P&Z CLERK

The meeting was called to order at 8:01 pm by Chairman Kivell which was followed by the pledge of allegiance and roll call. Laurie DiFrancesco made a motion to approve the minutes from 5/16/18 with a minor change to add the word “best” in the last line on page 7 top paragraph. Charlie Picarelli seconded it. All in favor, motion carries unanimously.

Chairman Kivell read into the record the public hearing notice for the application of Aharon and Tova Jacoby to receive variances from Article II, §210-18 Attachment 8 Table 5 to authorize the construction of an extension to a single family residence. The proposed dwelling will have a .33 FAR. where the maximum permitted FAR. is .20; a 25 ft. rear setback where a 35 ft. setback is required; pre-existing non-conforming variances for a 32.4 ft. front yard where 35 ft. front yard is permitted and 32.4 for front setback where a 35 ft. front setback is required. The property is located on the east side of Kenneth Street approximately 150 feet north of Besen Parkway. The lot is designated as Section 56.14 Block 2 and Lot 53 on the Town of Ramapo Tax Map. The property is located in the R-15 Zoning District and contains .31 acres. The street address is 3 Kenneth Street Airmont, NY 10952.

Chairman Kivell also read into the record the following documents and summarized their findings:

-GML from RC Planning dated 9/6/18 requiring comments from various agencies. The FAR calculations on the architectural plans and bulk table on the site plan indicate that a floor area ratio of .29 is proposed. However the calculations provided do not include the basement as part of the gross floor area, as is required by the Village’s regulations. According to the GML referral form, the letter from the Airmont Building Inspector to the ZBA, and the application review form, the correct proposed FAR is .33. A revised FAR calculation must be provided and the bulk table must be corrected. In addition, the bulk table does not indicate a variance of the rear setback which is required and must be amended. The public hearing notice must be reviewed and if it contains inaccurate information, it must be reissued. The Deputy Village

Attorney and the P&Z clerk both verified that the public hearing notice was accurately done. The GML noted that the map notes on the site plan are incorrect and need to be adjusted to reflect Suez as the water source along with RC Sewer District No. 1. The vicinity map also needs to be revised to center the subject parcel.

-RC Sewer District letter dated 9/11/18 noting that the sanitary sewer connection must comply with District's construction standard and subject to approval of Town of Ramapo.

-DOT letter 9/13/18 stating no impact from this application.

-Town of Ramapo Department of Public Works letter dated 8/15/18 noting that the plans need to be updated to correct the sewer line as the work that will be done on the property is not shown.

-RC Department of Health letter dated 9/10/18 noted that if a storm water management system is required an application for the RCDOH for review for compliance with County Mosquito Code would also be required.

-Town of Ramapo letter dated 8/20/18 noted they have no comments.

-Village of Airmont Resolution 18-4129 dated 7/30/18 authorizing them to proceed with their application prior to moratorium being lifted. Since that meeting the moratorium ended the beginning of September.

- Chairman Kivell asked why the Brooker Engineering letter dated 7/10/18 was included. The P&Z Clerk as a result of the BOT Appeal submission. It noted that should the application proceed forward, engineering items for soil & water and for storm water management need to be reviewed for compliance. This would be required to be noted for the environmentals for SEQR for the ZBA. Dan Kraushaar explained that normally the environmentals are done by the PB however for single family residences this will need to be acted upon by the ZBA. Therefore the ZBA needs this information before them in order to do so.

- Letter from Building Inspector (no date) noting that four variances are required. It indicated that two variances are pre-existing, front yard setback and front yard which are not being altered. The other two variances - rear yard setback is only 25 feet on the side by the new addition and would require a 29% variance and the FAR proposed is 33% which would require a variance of 65%.

It was discussed that the application was submitted prior to the zoning code change updates being implemented which is why the application had the inconsistencies in the variance request as per the Building Inspector's letter. It was again noted that the public hearing notice and GML request accurately reflected the correct variance requests for the record.

- An application, narrative, plans and architectural drawings along with a short EAF form were also submitted.

Ryan Karben attorney for the applicant, noted that the Jacoby's are requesting an addition to their home as their family size has grown to 13 children and need additional space. The lot area and front yard are conditions that are present and therefore are two existing conditions. The two variances being requested are the rear yard setback of 25 ft. requiring a 29% variance and the floor area ratio of 33% requesting a 65% variance. The other side of the single family residence complies with the rear setback. It would be a substantial benefit to the applicant and the community to receive the variances. He appreciates that all the agency letters were read into the record and the Building Inspectors letter addressed the calculation of the FAR so there is no override needed for the GML. There is substantial testimony from the neighbors as to no adverse effect and there has been an effort by applicant to minimize the variances. The request does not adversely affect the character of the neighborhood based on the all the letters and emails from the community. This the most practical place to put the addition and do not feel there is a practical alternative in order to retain their residence. The FAR is .25 and under new code .29 is required and is modest variance request. The rear set back requirement is 35 ft. and they are at 25 ft. from the closest point of building to the property line and the narrowest point. This is an average density lot in the R-15 Zone. From an environmental impact zero net run off needs to addressed and complied with by the applicant however nothing has been identified by the agencies that can not be mitigated by the applicant. The benefit to the applicant is very significant. Substantial buffering exists between the neighbors. On behalf of the applicant he respectfully requests that the ZBA approve the variances.

Laurie DiFrancesco had a question on development coverage for the Building Inspector. It noted that the plans say the developmental coverage needed is 50% and 22% is provided so what does that mean. The Building Inspector advised that the bulk table is incorrect, needs to be updated and that the developmental coverage is 35% and they have closer to 22% so they are well within the range of coverage. Laurie asked if the basement is included in the FAR and is it above the 6 ft. space. Building Inspector does not believe that it is calculated in the and the usable area of the basement came to 33%. Everything counts other than the utility room including the storage area.

The Building Inspector advised that there is 33% usable area. Everything counts except the utility room. Everything can be used in the calculation including the uninhabitable space. The FAR space provided is 33% vs. 25% permitted and 29% applied. First step would be to amend the bulk table on the plans to reflect the required and proposed. They applied for 29% however the legal notice was properly advertised as the clerk reviewed it with Lou. Storage was not counted but the usable areas were counted in his number which came to 33%. The rear setback has another mistake in the bulk table. Step two would be to adjust the rear set back of 69.8 when it is actually 25 once corrected. Again the notice was advertised correctly. Dan Kraushaar indicated that the bulk table needs an amendment for the required vs. proposed to match the notice. Ryan Karben noted that the narrative was correct and that they would make the adjustment.

Laurie DiFrancesco reconfirmed that they noted that they need a 33% variance for the FAR which she wanted to clarify with the Building Inspector.

When you look at the plan it appears there is a proposed addition in the front appears another

variance. The Building Inspector advised that it does not say change to property line. The concrete pad doesn't count, goes to the corner of the garage per the Building Inspector. 32.4 is existing and is not a variance to grant, its just re-stating it. Laurie thanked him for the clarification.

Dan Kraushaar asked the reason it is called the new guest bedroom on the architectural. What is the intent? Additional space for additional children? It appears to be changing the characterization. The intent of the application is additional space for the additional children and he did not see why this wording appears to change the characterization. Laurie DiFrancesco noted from a planning standpoint it was common with architects to do so.

Dan Kraushaar noted it needs to be clearer that on the page with the bulk table the proposed addition is a two story addition. The bulk table needs to be updated on the site plan to further reflect this on the plans – proposed two story addition. Currently it only states the addition which is not sufficient when its a proposed two story addition. You shouldn't have to know to look at the architectural to determine so, especially if someone else is reviewing it.

Laurie DiFrancesco noted that the finished area of the basement does not show any ingress or egress. The Building Inspector noted it would be a wise idea for a window well however neither the window wells not the window are on the architectural. Dan asked then if currently the idea for a window well is used then the C/O would show that it is non-habitable space as it could not be used for a bedroom. The Building Inspector did confirm this.

Laurie DiFrancesco noted that houses of 2600 sq. ft and above have a one car garage. By providing this addition does this create any issues with the square footage going from 2700 to 3859 of habitable space since there is a new garage code? The Building Inspector advised that the addition does not count with the new garage code, it would only be for new construction of an entire house. They are just adding a living space addition.

Laurie DiFrancesco made a motion to open the public hearing at 8:47pm. Arthur Katz seconded it. All in favor, motion carries.

Arthur Sewab – 3 Besen Parkway was sworn in by Chairman Kivell. He did not know that the family had 13 children and he is happy that they would want to stay in the neighborhood and build an addition. This would only make the home nicer and he applauded them for doing so and requested the ZBA to please grant the variances.

Pearl Zelk – 25 Besen Parkway sworn in. Has been neighbors with the Jacoby's for the last 13 years and their children have become very friendly. The Jacoby's have opened their home to them even with their busy household. They also make their children feel welcome and he is in full support of the addition.

Abraham Goldstein – 12 Besen Parkway was sworn in. He noted that his only concern by granting a large house would be the traffic but that would not necessarily apply here. He feels the addition should be granted and would be an asset and a benefit to the neighborhood.

Darren Ritkin – 9 Plymouth was sworn in. He noted that in the defense of the character of the neighborhood he was in total support for this application as this would only preserve the quality and character of the existing neighborhood and would be seen as a benefit to the community.

P&Z Clerk noted that she received ten emails in favor of the addition and variances on behalf of the applicant and one opposed. The ZBA has all the emails before them that were received prior to the meeting. Ryan Karben confirmed that the applicant waives the reading of each letter as the ZBA has them before them.

Laurie DiFrancesco noted it was wonderful to see the support from the neighborhood. She stated that the FAR is not a minor request. She had a question as to whether or not the FAR is proposed for new storage. The height difference is less than 6 ft. and asked if it could be minimized. She felt that the storage space was too a large space for the FAR. Thus the variance would not appear as great as it does.

Applicant stated that the bedrooms are not that large and indicated that they really need the storage. Concern with where the current basement is that there are two windows from proposed area even though they are not egress they allow daylight makes the downstairs space more usable if have low ceiling storage. He noted it would be a detriment to the current space that they already have. Laurie suggested that they add a window to the study to provided light. Currently there are no windows in the storage area. Ryan Karben had no objection.

Laurie DiFrancesco noted that they are not asking to remove the storage space, but make it more of 3-4 feet from basement which doesn't get counted in FAR and minimizes the request to bring it down without affecting the lifestyle.

Ryan Karben noted that the applicant stated they need the space for their stuff. Its a balancing test and criteria. Whose detriment is it to have a slightly more functional 6 ft. storage space and is the applicants preference and they prefer to have it.

Laurie DiFrancesco indicated that she was asking this as a way to grant what is superseding and to look at the storage space to bring an alternative for usage. This is the easiest way to look at as an alternative.

Arthur Katz made a motion to close the public hearing. Laurie DiFrancesco seconded it, all in favor motion carries.

Chairman Kivell appointed ad hoc member Matt Ryan as a voting member for the evening.

Laurie DiFrancesco noted that the sewer line is currently under the addition as per note from the Town of Ramapo and should be noted as a map note. If any pipes need to be moved they must comply with the Town of Ramapo for a larger and better type of pipe. This will need to be reviewed by Lou.

Ryan Karben agreed to do the map notes and have them be reviewed. He also agreed on

behalf of his applicant that there be a storm water management review and any required security to be paid prior to Chairman's Endorsement or a permit being issued. He noted they would comply with all the comment letters especially the one from the Town of Ramapo Department of Public works and any further engineering items.

Laurie DiFrancesco asked Lou what the FAR would be if they did change the storage area. The Building Inspector noted it would go from .33 to .29 (.04 variance difference).

Charlie Picarelli discussed the dry well calculation on the proposed plan. He indicated that it should be based on the soil type and it needed corrections. It needs dry well gutters and perhaps a dry well on the other side. One condition of approval is that defer all of this to be reviewed by the Village Engineer. The plan does not show elevations on the existing site. Appears there may be storm water management issues with three liters entering onto one only on one side of the house but he would leave that up to the Village Engineer to review.

Dan Kraushaar noted that this is a Type 2 Action and should be reviewed by the Village Engineer regarding run-off. Typically when it comes to the ZBA meetings the Village Engineer or their expertise to analyze environmental's. Usually an application first goes to Planning Board (PB), PB does SEQR (environmentals) and then if variances are required the PB refers the applicant to ZBA so the SEQR is already acted upon. The drainage is a legitimate concern and it would not adversely affect the Board or the applicant to type it with a notation that they are very concerned about the drainage system being proposed. The Board can conditionally approve the SEQR with a determination upon the Village Engineer to review all drainage aspects to make certain it complies with NY State Stormwater Management Regulations and any other drainage concerns.

Arthur Katz made a motion that this application be a Type II with no further environmentals required with the Village Engineer's review of all drainage components and storm water prior to Chairman's Endorsement as the ZBA is very concerned with this as part of the SEQR determination. Laurie DiFrancesco seconded it. All in favor, motion carries.

Laurie DiFrancesco noted that the bulk table needs to be updated correctly on the plans. The basement area now being proposed is new and needs to be added in as storage. The basement square footage is therefore incorrect on the architectural and proposed should be 593 and brings basement up to 1100+. A total of 4300 is 33% by actual measurements he took as per the Building Inspector. Therefore the architectural need to reflect the conditions stipulated as well as that they all match, have no spelling errors, no windows in storage area which they are requesting, means of ingress/egress to the storage area as well. The Building Inspector noted that none of the three drawings match one another – the site plan, the elevations, architectural and floor plans and need to be corrected to do so. Dan Kraushaar noted that this must be a condition of approval.

Arthur Katz made a motion to approve 3 Kenneth Court for the construction of an extension to a single family residence. The proposed dwelling will have a .33 FAR where the maximum permitted F.A.R. is .20; a 25 ft. rear setback where a 35 ft. setback is required; pre-existing

non-conforming variances for a 32.4 ft. front yard where 35 ft. front yard is permitted and 32.4 for front setback where a 35 ft. front setback is required. This approval would also be subject to the following specified conditions:

All comments as noted from:

- Brooker Engineering memo dated 7/10/18;
 - Comments from the RC Planning GML dated 9/6/18;
 - RC Sewer comment letter dated 9/11/18
 - DOT comment letter dated 9/13/18
 - TOR Department of Public Works letter dated 8/15/18
 - RC Department of Health comment letter dated 9/10/18
 - Building Inspectors Letter (no date)
 - Subject to the Village Engineer reviewing all the required engineering items on water and soil with respect to the Brooker Letter dated 7/10/18 and subject to the Building Inspector & Village Engineer getting a set of plans that are corrected and accurate, bulk tables & architectural & elevations matching.
- Drainage and sewer items being reviewed and approved.
Payment of all any any professional fees.

Chairman Kivell seconded the motion and opened it up for discussion. In breaking down the variances and voting with no action needed on the pre-existing items:

Picarelli – Voted to approve subject to conditions of the Building Inspector and Village Engineer and other entities.

Ryan – in favor as he deemed the conditions were reasonable.

DiFrancesco – in favor to approve as long as they correct calculations. In favor to approve based on the Building Inspector's review, the bulk table being updated and revised and the Village Engineer reviewing the plans for storm water management issues. She complimented the way the neighbors and community stepped out, a long standing community which is a precedent for allowing such a large FAR variance.

Katz – in favor to grant the variances for all reasons that Laurie DiFrancesco noted. He also stated for the record that the neighbors were an asset to the applicant.

Chairman Kivell – in favor to grant the variances subject to all conditions being adhered to. Besen Parkway has an array of nice looking houses and he didn't believe it would have a negative effect and for all the reasons that Laurie DiFrancesco stated.

All in favor. Motion carried unanimously.

The P&Z Clerk advised that there were no submissions for next month's ZBA and she would advise the ZBA once any applications were submitted. Laurie DiFrancesco made a motion to adjourn the meeting. Matthew Ryan seconded the motion. Meeting adjourned at 9:45pm.