

**Village of Airmont  
Zoning Board of Appeals  
Village Hall  
Thursday, July 14, 2016**

MEMBERS PRESENT:   MARTY KIVELL, ACTING CHAIRMAN  
                          LAURIE DIFRANCESCO  
                          CHARLES PICARELLI  
                          ARTHUR KATZ  
                          PETER BLUNNIE, AD HOC

MEMBERS ABSENT:   MICHAEL BERNSTEIN, CHAIRMAN  
  
                          RICHARD SCHONBERG, AD HOC

OTHERS PRESENT:   DAN KRAUSHAAR, DEPUTY VILLAGE ATTORNEY  
                          JOSEPH TICHENOR, BUILDING INSPECTOR  
                          SUZANNE CARLEY, ZONING CLERK

The meeting was called to order by Acting Chairman Marty Kivell at 8:00pm which was followed by the pledge of allegiance and roll call. Marty Kivell assigned Peter Blunnie as a full voting board member for the evening. Laurie DiFrancesco made a motion to approve the minutes of June 9, 2016, seconded by Arthur Katz. All members in favor. Motion carries.

**Congregation Echo Ridge**  
**3 Echo Ridge Road**

Acting Chairman Kivell recapped that there is a continuation of the application for Congregation Echo Ridge for variances. The public hearing was closed at the last ZBA Meeting on June 9<sup>th</sup>. Everyone has returned this evening to answer questions and make a determination on the applicants request. He reiterated the variances they are before the Board for which are:

Developmental coverage 12.2%

Floor Area Ratio .04

Rear Setback-previously granted 25.7ft. Now requesting an additional 11.7ft.

Front-yard -previously granted 16.7ft. Now requesting an additional 11.1 ft.

Grage Variance

Develop 18 parking spaces for a new total of 25 spaces

The Acting Chairman Kivell requested that the applicants attorney recap where we left off at the last meeting.

Ryan Karben – Applicants Attorney. Where we left off was to clarify the boundary of where the parking lot set back would be which is Lot #2 Echo Ridge Road at the corner of Fawn Hill and Echo Ridge Road. Discussion of moving parking forward preference or eliminating spaces. A revised drawing was requested to breakdown the square footage of the worship areas, architectural and a narrative. Hope this adequately shows the ten feet behind the parking lot. The question is how to orient the package. This is an existing operating house of worship at a residence.

Marty Kivell-this is a residential house of worship.

Laurie DiFrancesco- has a question for the attorney. Several concerns from the last meeting were the amount of vehicles and the traffic on the street. The proposed parking may or may not eliminate cars still blocking areas of the street. Is it possible to request with applicant approval areas with signs for no parking. Is this request within our purview?

Dan Kraushaar - The request is in your purview but the act of putting a sign is within purview of the Village Board subject to Village BOT approval. If we consider this there is a way to make it subject to some sort of traffic control.

Laurie DiFrancesco - there is also a concern with traffic coming out of the parking lot also being subject to some kind of traffic control.

Ryan Karben – if any owners consent is required we freely offer a consent and allow it to be put into the record.

Marty Kivell – can not ultimately leave it to the ZBA, its up to the Village BOT and the police.

Dan Kraushaar – If ZBA as part of its duties looking at the impact of the neighborhood would like BOT to install no parking signs from   X   to   X   so that there is at least an actionable result of requiring people to first utilize the additional parking on the site rather than what is now occurring, likely to occur and even more likely to occur with the expansion of the residential house of worship without additional parking; the applicant’s attorney is consenting in advance that should BOT take that action upon recommendation from the ZBA that applicant has no restriction.

Laurie DiFrancesco – concern from public has to do with traffic. Applicant stated by doing this he can relieve some if not most of the traffic issue so that vehicles in passing have less of a concern. As a ZBA member the concern is in giving a variance for something that is not relieved we have given a variance for something that doesn’t assist.

Arthur Katz – expressed that signs should not go in until after parking lot is functional.

Laurie DiFrancesco- the reality is if construction starts there has to be no parking signs for safety reasons so something should definitely be in place during construction.

Ryan Karben – agreed to post as a condition of approval.

Marty Kivell- lets take this piece by piece and go through it.

Dan Kraushaar – lets recap. At the last meeting of June 9<sup>th</sup> additional information was asked for specifically the measurement in the rear to make certain the variance sought is actually the variance required. The public hearing was closed however the discussions of the matter were continued to July 14<sup>th</sup>. for further deliberation. SEQRA has been completed by the PB. The applicant would also need a waiver from the PB for a second curb cut. They are requesting five variances in total.

Laurie DiFrancesco – question about the waiver for curb cut. Will they require a third curb cut?

Ryan Karben - there were three curb cuts proposed and the 3<sup>rd</sup> was removed as recommended by the PB. The 2 curb cuts for the site needs approval from the PB.

Laurie DiFrancesco- you are removing entrance closest to the parking lot the and there will be one driveway entrance to the shul and to the parking lot. Service parking lot on the left.

Ryan Karben- yes that is correct.

Laurie DiFrancesco- one of questions I have is about a very heavy row of bushes in front of a wood fence and it covers the fence. I don't see shrubbery on the plan.

Marty Kivell - general question residential house of worship. We need to read all facts and statements x amount of people and x amount of parking spaces. The entire area on bulk requirements required parking would be 25 spaces based upon what?

Joe Tichenor- responds that different types of occupancies require different parking. Parking request allowed for living space.

Joe Tichenor – if you are just asking in general please be advised that the PB has the right to reduce parking by 10% for 2 more spots.

Dan Kraushaar – they were not inclined to do that as parking on the street parking is a huge issue.

Marty Kivell – applicant is asking for developmental coverage. Please explain further.

Ryan Karben - developmental coverage of 12.2% is needed to create the parking. Preferred a greater developmental coverage than parking spaces themselves. PB preferred if they needed to trade off paving in parking they were clear that they preferred that there be adequate on-site parking and additional spaces. Last discussion at the ZBA meeting was to increase it by two more spaces. No parking variance requested we've maxed out the parking. If we intrude and go further for parking spaces and more parking, there would be more of a developmental coverage issue.

Dan Kraushaar- At the PB hearing the public raised concerns with the parking and asked can you provide more parking on site because there is an existing problem that will be exasperated based on your addition thus far. They revised their plans to do so.

Ryan Karben – Due to the due to the existing problem we revised the plans for a developmental coverage variance. When there are competing policy adjustments we weighed & balanced on how we would go for the variances.

Arthur Katz– do we need to read into the record the letter received from Rockland County Environmental Health?

Dan Kraushaar – the public hearing is closed so we can't enter new things into the record and it is addressed to the PB and they should address it not ZBA.

Laurie DiFrancesco – The irony is you need to walk during worship and the problem is the cars. We have a parking lot and an addition. The addition is requiring additional parking as it increases the occupancy mode correct? Joe Tichenor agreed.

Joe Tichenor-You can not agree to the addition without the parking for this use. The change to the residence is an addition.

Marty Kivell – simple definition of a Residential House of Worship is a residence and part for a sanctuary. Lot area for conducting religious services is 31,000 sq. ft. There are specifics for under and over 1400 sq. ft. This is to be distinguished from a Free Standing House of Worship and a Neighborhood House of Worship. There are no other further specifications in the Zoning Code.

Joe Tichenor –For the square footage of a Residential House of Worship from the code you can not exceed 1/3 of the 1400 sq. footage. He re-runs the calculations again and confirms that they are just under the requirement.

Laurie DiFrancesco-to clarify its a 2048 sq. ft. lot size non-conforming 31,400 sq. ft. and meets the calculations of the Building Department.

Joe Tichenor - responds yes.

Laurie DiFrancesco – would like to discuss the variances other than the package before making any other motions.

FAR – includes everything total sq. footage etc

Rear set back – need for additional 11.7 ft. request to push out back of house. Previously granted an additional 11.7 ft. distance 10 ft. at elements in rear. Rear setback measured to edge of building.

Laurie DiFrancesco – would this create a precedent for those who do not want to rebuild a garage? We need to discuss whether or not allowing usage but should property be sold or converted back.

Marty Kivell – Recall consider doing it under a hardship for another application.

Joe Tichenor – Total worship area is 2048 sq. ft. 6111 sq. ft. in total.

Ryan Karben – Willing to file a covenant if Residential House of Worship ceases as a Residential House of Worship and convert it back.

Joe Tichenor -disagree. Bathrooms and solely and solely every area not used for Residential. Area occupied by the occupants of the Residential House of Worship and separate for two. Rabbi and family for residence. House of Worship not using restrooms downstairs sq. footage has to belong should be to House of Worship not house.

Laurie DiFrancesco – House of Worship within a residence no specific numbers. Noted part of worship area.

Laurie DiFrancesco – It appears from the community that this is growing. Is there a limit to what the structure can safely hold and an occupant load? Worried that if it keeps growing and the occupancy load grows it will no longer be safe?

Ryan Karben – When it gets above the limit or too crowded they will leave for more room or go somewhere else.

Laurie DiFrancesco – based on 69 in the congregation if a limit cant go beyond how do you calculate this?

Joe Tichenor – occupant load – Based on square footage and emergency exists not tied to the package. Size of the House of Worship could change.

Marty Kivell – what was spirit and intent when it came to defining Residential House of Worship in 2014 certain variances were given for larger space and not in 2016.

Laurie DiFrancesco – Problem with specific definition of Neighborhood and Residential House of Worship. My understanding is that is Residential is for those to gather until Village defines it better and has less ambiguity.

Arthur Katz – if you covenant anything to the use of building.

Ryan Karben – If worship use ceases we would be willing to if it could be offered.

Dan Kraushaar – as an aside the Board imposed a condition a number of years ago for a passover kitchen in a garage application from someone. A new purchaser had no desire to keep it as a covenant – variance leaves. If a variance is granted its governed with unless anything changes.

Arthur Katz – if use doesn't change can they figure the structure differently?

Dan Kraushaar – if use changes it is reasonable for the Board to consider.

Laurie DiFrancesco – could state in variance for a two car garage based on the individual circumstance. The PB trying to make sure that we don't set a precedent for someone else that comes before them.

Peter Blunnie – at the last ZBA the was discussion of growth. What happens if it grows and developmental coverage increases and what happens with the Residential House of Worship. Need to look at what the Village wants not just that neighborhood.

Dan Kraushaar - this Board has to be guided by what is, not what you would like it to be. Read the way the statute is and read in light of what is most favorable to the applicant. A discussion for another day when it comes to a mixed up use of an occupation certain criteria often defines primary use and secondary use and what triggers it but we don't have it in this case. A strong argument is why it should be made or considered by a higher authority makes the determination deem with what is.

Laurie DiFrancesco- on application of 3 Echo Ridge from Article V , Section 210-16, Table 3 of the Local Zoning Law, Bulk Tables Regulations of the Village of Airmont to permit construction, maintenance and use of an existing Residential Place of Worship for a proposed addition with additional parking. The following variances are being requested: 12.2% for developmental coverage, .04 for floor area ratio, an additional 11.7 ft. for rear setback, an additional 11.1ft. front yard variance and a garage variance. I make a motion to approve with stipulation.

Dan Kraushaar - Applicant at ZBA requests a copy of these findings of facts and conclusions of law be sent to the Village Board with specific request as consented through the applicants representative that no parking signs to be placed from the beginning of the property to the end of the property line. Consent that use of the Residential House of Worship that the if the use is terminated, all variances of developmental coverage and garage variance run with the use of the property. In the event that upon cessation as use of a Residential House of Worship, all black top parking lot areas parking lot be returned to grass and garages restored to garages in the form of a covenant filed with the county clerk.

Arthur Katz - seconded the motion.

Acting Chairman Kivell asks if there are any discussion items. There is no guarantee that the BOT will approve the signs.

Arthur Katz- in order to avoid chaos I feel that the no parking signs don't go up until the parking lot is built. This recommendation to the BOT is until adequate parking is available. Mr. Katz asked that if the BOT is inclined to have No Parking signs, they are not installed until such time as the parking lot is completed and ready for occupancy.

Laurie DiFrancesco - due to the fact there will be construction there will be too much going on in front of the property I would like the times posted outside for the permitted construction times. I would also like this to be included as a request to the BOT.

Arthur Katz - this construction site should not be treated any differently then any other construction site.

Marty Kivell - the residence became a Residential House of Worship within a zoning code however having difficulty in expansion. A) Self created B) look at Village as a whole with 2,000 property lots don't see where we should allow coverage to go beyond.

Dan Kraushaar - self created not a reason for area variance only a use variance. Required standards impact neighborhood, emergency services can be achieved by any other means other than the granting of variances or can you purchase a neighboring property to seek relief. This is greatly impacted for religious use.

Marty Kivell- Before written in code a free standing house of worship only had a requirement of two acres with ambiguity.

Dan Kraushaar - Have to apply standards and they are relaxed and one is not self created before RLUPA. RLUPA relates to use not intensity when intensity is taken into account. Intensity was analyzed by the PB as part of SEQRA and they determined no negative impact.

Marty Kivell - The PB provided a referral to the ZBA and in order to do so they had to complete SEQRA.. Any other comments before we take a vote?

Arthur Katz-I don't agree with Marty that a Residential House of Worship is self created. Fact is people want to have a place to worship not a hardship.

Marty Kivell - I accept the use it the intensity of self created on top of the other requests.

Laurie DiFrancesco - I have concerns of the characteristics of the neighborhood with black top and the amount of parking. I have less concern about the rear setback. Any of the developmental coverage should be well screened from residents so it doesn't impose a commercial look. The size of the house is within the character f the neighborhood would be anyway.

Arthur Katz - agree with this and if given a choice between a parking lot or parking on the street the lot is the better of the choice.

Charlie Picarelli - the Rabbi understands the use of the lot and that it should be meet with a critical eye of the ZBA with restrictions. We don't want it to get to look as a commercial use.

Marty Kivell - Before we go to a vote lets discuss procedure.

Arthur Katz - this proposal represents calculations by the PB and applicant if this is the plan and calculations rest on it as a package we may set something else off if its done separately.

Joe Tichenor - the parking requirements for the residential house of worship and the addition to the residential house of worship go hand in hand.

Laurie DiFrancesco - we looked at FAR, rear setback but have not broken them down. The only benefit of breaking them down is justification for each one vs. the whole package.

Marty Kivell - it doesn't work. We have to vote on it as a whole package.

Zoning Clerk calls the Roll Call for a vote:

Member Katz - Approve yes to the application of 3 Echo Ridge as it best serves its needs, safety issues with parking and it serves the community as a whole.

Member Picarelli - facts and development of facts interwind. All the facts and work has to be approved as a whole logical package. I vote yes.

Member Blunnie - as a whole I do not agree with the over development. I feel over development will grow with the structure however to consider it as whole I do approve the motion.

Member DiFrancesco - vote in favor with a heavy heart and hope in spirit of the Village BOT and that they will make this work. Want to ensure the variances are for a specific use and not run with the land.

Acting Chairman Kivell - with a heavy heart I deny the motion with the number one reason being the substantial nature of the request. Some aspects I'm positive towards however having to vote in its entirety, and it being beyond what the intention of developmental coverage is with the substantial nature of the request and developmental coverage I vote No.

Motion carries 4 to 1. Motion approved.

Matter referred to PB for Final site plan approval.

Acting Chairman Kivell made a motion to adjourn at 9:55 pm. Laurie DiFrancesco seconded it. All in favor meeting adjourned.