

Town of Highland
Zoning Board of Appeals
Meeting Minutes Tuesday, May 20, 2024

Meeting opens at 7:00 PM

Chairman states the minutes are being recorded.

Pledge of Allegiance

Attendance

	Larry Fishman	Present
	Gerard Finn	Present
	Steven Solte	Present
	George Billard	Present
	Joe Consiglio	Absent
Alternate	John Marciano Sr	Present
Alternate	Dawn Thompson	Present
Board Secretary	Helene Hoffmann	
Town Attorney	Steve Mogul	

Motion to approve the meeting minutes from April 16, 2024 as they are.

Motion: Steve Solte

Second: John Marciano Sr.

All in favor - All Ayes

New Business:

Application #4-2024—Gjelosh & Lena Nikac – 5 Bodine Lake Road - Section 16.-4-22

Represented by Dave Preston

The applicant is requesting an area variance. Mr. and Mrs. Nikac wish to put a garage on the side of their building. They need to get an area variance for the rear of the lot. The existing house is 40' from the rear property line and it requires a 10 foot easement on the back setback which is 50'. It is an odd shaped lot which comes to almost a point at one end. Pictures of this are in the packet provided. Their house is very small and they need storage space. Dave was asked by the board to clarify the easement and it was stated that yes he needs an area variance not an easement. They want just the one setback in the rear yard from 50' to 40'. The chairman asked if the board has any questions regarding the requested area variance. Dawn asked if there was anything that would be impeding them and Dave Preston responded that the house was already within the setback and there was nothing to impede this.

Motion to schedule a public hearing on application #4-2024 for 7:15 PM on June 20, 2024.

Motion: John Marciano Sr

Second: Steve Solte

All in favor. All Ayes

Old Business:

Public Hearings:

Application #1-2024– Guillermo Morales Sub Division-Section 11 Block 1 Lot 35.1

Presented by James Irwin

Attorney Steve Mogel states he has to recuse himself from this application.

Mr. Morales wants to take a portion of the rightaway that he owns and make a separate lot which is an undersized lot and he wants to transfer ownership to the resident in the back who uses the gate and the rightaway. The chairman asks the board if they have any questions regarding this. A question is posed if the lot will be attached and Mr. Irwin explains that he just wants to change ownership. It is attached to Mr. Morales' lot. It would be a separate parcel but the owner in the back would own part of the rightaway. They want to subdivide it and make it into a substandard lot. It would not be used for anything but to drive through it and is contained within the existing rightaway that is already there.

Motion to open public hearing

Motion: George Billard

Second Gerard Finn

All in Favor. All Ayes

Chairman states the public hearing for Application #1-2024 is open.

The secretary reads the Public Hearing Notice that was published in the newspaper.

Please note the meeting date and time has changed to Tuesday May 21st at 7:00PM in Town Hall, Eldred NY.

- Please take notice that the Zoning Board of Appeals of the Town of Highland will hold a Public Hearing pursuant to Section 190 of the Town of Highland Code on the application #1-2024 of Guillermo Morales seeking the Subdivision of certain property identified as Town of Highland Section 11 Block 1 Lot 35.1.*

Said hearing will be held on the 21st day of May 2024 at the Eldred Town Hall, 2 Proctor Road, Eldred, NY at 7:00 PM, at which time all interested parties will be given an opportunity to be heard.

Secretary states that 18 letters went out and 1 was returned. There was no correspondence received regarding this public hearing.

Motion to close Public Hearing on Application #1-2024.

Motion: Steve Solte

Second: George Billard

All in Favor. All Ayes

Chairman states that he has no problems with the requested variance. It is not getting any closer to the property line than the house already is. It is reiterated that the rightaway and maintenance of the gate is only switching to the new ownership. The chairman asks Steve Mogul if he is going to write the determination for this. Mr. Mogul explains he had to recuse himself from this application and will have Javid Afzali – Special Counsel for Steven Mogel write the determination. The chairman states that he will make a motion to allow this with the assurance that nothing will ever be built on this lot, the lot will

be maintained for the thoroughfare by the new owner and there will never be a lock on that gate that will prevent the other owners from access to this road.

Motion to accept the variance

Motion: Steve Solte

Second: George Billard

All in Favor. All Ayes

Application #3-2024 - Thomas and Ruth Henri -Section 23 Block 1 Lot 21.4

Represented by Dave Preston – Section 23 Block 1 Lot 21.4 – Requested Variance

Mr. Preston explains that there was a basketball court constructed when they first bought the house and now they would like to build a garage where the basketball court is currently. They need a variance since they are asking for reduction of setbacks. Applicant is asking to change from a 50' front setback and 30' side setback to a 23' front setback and a 20' side setback to build a garage. When questioned why this is being requested, Dave Preston explained that the topography elsewhere on the property is not suited for this. The location where they want to build the garage is a slab of a basketball court, the land is flat and has clear access to the house.

Motion to open public hearing

Motion: Gerard Finn

Second John Marciano Sr

All in Favor. All Ayes

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Said hearing will be held on the 21st day of May 2024 at the Eldred Town Hall, 2 Proctor Road, Eldred, NY at 7:00 PM, at which time all interested parties will be given an opportunity to be heard.

Secretary states that 6 letters went out and 5 was returned.

Chairman asks if there is any correspondence. Secretary states that two e mails were received and reads the correspondence.

The first e mail is from Mark Hook, executor of Mendes property and stated he had no issue with this request.

The second e mail was from Heather Jacksy and she has no objections to the garage but hopes that there is no proposed new outdoor lighting but she asks that if there is, that it adheres to dark skies best practice. Dave Preston states that yes they will respect that code. Correspondence will be available with the minutes on the website.

Motion to close Public Hearing on Application #3-2024.

Motion: Steve John Marciano Sr

Second: Steve Solte

All in Favor. All Ayes

Chairman asks if there are any questions from the board. There are none. Chairman makes a motion to accept this variance.

Motion to accept the variance

Motion: Steve Solte

Second: Gerard Finn

All in Favor. All Ayes

Application #2-2024 – Yeshiva Ohr Shraga Veretzky, 211 Mail Road –

Represented by Steven Barshov - To finalize their interpretation of use for the property.

Mr. Barshov is here to present the position of the property owner. He makes it clear this is not a typical application because they are not here to apply for anything. This is a referral from the planning board asking for an interpretation. He states this request was a surprise because when they presented to the planning board, there was material submitted to the planning board by one of the town's consultants raising questions whether or not the uses that were proposed were in fact religious uses. Mr. Barshov prepared a memorandum of law that was submitted to the planning board last year and this package was sent to the zoning board prior to this meeting. Mr. Barshov is now front of the zoning board of appeals to give the facts and the law to explain the interpretation of the use of his property. He reiterates that this is for Religious Use and states examples of this from other cases where there are many activities under this umbrella. He states that they want to use this property in the summertime to come en masse to continue religious education that was taught during the year. The rest of the year it would be used for religious retreats that would come up to the property and have whatever activities they need to provide during that time i.e. holiday, education, etc. Chairman asks Mr. Barshov to define "Place of Worship". Mr. Barshov explains that a Place of Worship is a place that religious uses is undertaken and is a full complex of religious uses. Chairman asks Mr. Barshov if this definition is in other court cases and Mr. Barshov states that he has cited these cases. This is confirmed with Steve Mogul that we have these cases to review. Mr. Mogul confirms that these cases does give these broad terms. Chairman asks Mr. Barshov if this project will provide full time education which Mr. Barshov states that it will be full time during the summer. Chairman asks if this education will follow with the New York State Education Law which Mr. Barshov states that it may or may not be following these laws. Chairman asks if the property will be used for kids and the families. Mr. Barshov states that there are two categories here. One is children whose parents are not there and are educated and they stay there and the second category are families with their children . While the children are being educated, there are things the parents will do with the rabbis. Mr. Barshov is asked the age range of the kids and this is answered as there are different age groups. Chairman asked if the Yeshiva owns the property yet which Mr. Barshov states he is not sure and will check if the deed has passed to the Yeshiva at this time Mr. Barshov is asked by the board if there are other religious denominations that will use this property which Mr. Barshov states that probably not due to the Kosher kitchen and laws. The board asked if children will be transported there during the day as a day camp and Mr. Barshov responds it will only be for the groups of people staying there. The Town Attorney asked how this would distinguish from a summer camp that is just a camp and Mr. Barshov stated he submitted to Fallsburg that these are not camps, retreats or schools but are religious uses. The board asked if these groups pay to come up here. Mr. Barshov stated that the groups will pay a fee to offset the expenses and the students and fees will pay something but is not sure of the details but will find out if we need to know. The board

asked if anyone pays a fee to the town and Mr. Barshov stated that if there is a fee required I am sure they would pay.

Motion to open public hearing for application #2-2024

Motion: Gerard Finn

Second John Marciano Sr.

All in Favor. All Ayes

The secretary reads the Public Hearing Notice that was published in the newspaper.

Please note the meeting date and time has changed to Tuesday May 21st at 7:00PM in Town Hall, Eldred NY.

- Please take notice that the Zoning Board of Appeals of the Town of Highland will hold a Public Hearing pursuant to Section 190 of the Town of Highland Code on the application #2-2024 of Yeshiva Ohr Shraga Veretzy, 211 Mail Road for an interpretation as to the proposed use of property identified as Town of Highland Section 15 Block 1 Lots 70.1 and 70.2.*

Said hearing will be held on the 21st day of May 2024 at the Eldred Town Hall, 2 Proctor Road, Eldred, NY at 7:15 PM, at which time all interested parties will be given an opportunity to be heard.

Secretary states that 29 letters went out and 15 was returned.

Correspondence – Secretary reads Correspondence from Linda Gunther Anderson opposing this application. Correspondence will be available on the website with the minutes.

Steve Mogul reads a statement on rules that he would like followed for these public comments and asked to limit their questions to the issue of the interpretation of the use of the property and stated that that the zoning board will not tolerate any anti-semitism, racism, sexism or any other hateful comments and if this is violated, their time will be forfeited.

Public Comments:

Chere Krist – 793 State Route 55 – Mrs. Krist asks that if this town does not allow camps, why are we changing the use of the property from a hotel to a camp. She does not feel that camps are good neighbors. She wants to ensure the safety for pedestrians and health safety.

Joseph Krist – 793 State Route 55 – Mr. Krist – He comments that we as a town have questions that they have asked of an applicant who constantly reminds us that they have been dealing with this for a year and yet has not provided us with straightforward respectful answers to our questions. He is also concerned about the traffic problems and risks for pedestrians as well as respect for their neighbors and traditions. He feels they by not providing clear cut answers it is disrespectful to the board and the town.

Margaret Blaut – 131 Mail Road – Ms. Blaut concern is for traffic safety and feels that there is a risk to the people on Mail Road. She feels we cannot handle the increase in traffic.

Doreen Hanson – 17 Hansons Lane – Ms. Hanson states that back in 2014 another organization had an application to have students there up to 18 years old . The community came out and asked that this be voted down and it was voted down. This was not a religious group that requested this.

Trynka Stoyanova – 89 Beaver Brook Rd – Ms. Stoyanova asked how many students there will be. She is concerned what will be built. She talked about taxes and that other religious groups do pay taxes but the Yeshivas are exempt.

Shirlee Taylor – 128 Mail Road -Ms. Taylor is concerned about safety to a rural country road and the effect on the community.

Ruth Ellen LaRuffa– 200 Yulan-Eldred Road – She comments that this as a religious worship is new and will take time to get the parameters of what this will entail. She had looked up the Yeshiva website and she said that there was good information on the website but was concerned that there is a picture showing a proposed camp in Barryville and she will be investigating this further. The copy of this picture will be available on the website with the minutes. She questions the number of dormitories and the number of people that will be there at one time.

Richard Neuberger – Richard states that he is not hearing a lot of information and wants to know the plan about the number of people and the maximum number of people that will be that at one given time. He also asked how many people will be using this as a permanent address and wants to know if they have a right to vote. Steven Mogul stated that this is not a question to be answered by the town as to where people have a right to vote and is not for the town to decide.

Georgiana Neller – 188 State Route 21 – Ms. Neller shared her experiences that the prior owners pressured her to allow a road to be built through to Route 21. She continued to say that she would like to keep the way of life that we have had and not to change. She questioned how many people are there not only during the summer but year round.

Mr. Barshov addresses the matters that were brought up during the public hearing and stated that most of the comments will be addressed at the planning board. He understands the frustration and asked that any questions, comments, etc. be sent to him via e mail. He gave his e mail address – sb@sbarshov.com.

He addressed the issue of being good neighbors he would be happy to arrange a meeting between the people of the Yeshiva and the town and understands that the community would like to keep the town as it is. He stated that the kids coming up will be studying all day, staying at the property and will not be coming and going. He stated he would be happy to answer all questions at the planning board and came to this meeting to address the interpretation of the use. He agreed to give anyone the memorandums if they requested them.

The chairman then stated that since this is a complicated issue, we will address this issue over the next month, get as much information as possible, absorb the comments made today, though assured that these comments will not influence the board on what was addressed here. The record will be left open

for the next two weeks and can submitted during that time period. After two weeks, public comment will be closed.

We will address the matter at our next meeting, June 20, 2024.

Steven Mogul suggested and Mr. Barshov agreed that we can set up a chain of e mails for everyone to see questions and answers that may be asked.

Trynka Stoyanova then asked if there are multiple uses on the property, does that count as multiple primary uses of the property. Mr. Mogul states that Mr. Barshov has stated this is a Religious Retreat, that is the proposed use and that everything else falls under that general umbrella.

Motion to close the meeting:

Motion: John Marciano Sr

Second: Steve Stolte

All in favor. All Ayes

The meeting is closed at 8:15.