

**VILLAGE OF POMONA  
ZONING BOARD OF APPEALS PUBLIC HEARING  
FEBRUARY 23, 2022  
7:30 PM**

Topic: Pomona ZBA  
Time: Feb 23, 2022 07:30 PM Eastern Time (US and Canada)

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**AGENDA**

**MOTION TO OPEN PUBLIC HEARING**

**APPLICANT**

Solomon Landau  
34 Cornell Peak - To permit the construction of an single family home, providing 24% of lot coverage whereas the permitted maximum is 15%.

**OPEN PERIOD**

**MOTION TO ADJOURN**

**UNAPPROVED DRAFT**

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**VILLAGE OF POMONA**  
**ZBA MEETING/PUBLIC HEARING**  
**FEBRUARY 23, 2022**  
**7:30 PM**

**Present**

Chairman Alan Lamer  
Deputy Chair Kevin Dock  
ZBA Member Jesse Kaufman  
ZBA Member Bill Baker  
Village Building Inspector Louis Zummo  
Village Engineer Martin Spence  
Village Attorney David McCartney  
Village Clerk Chakiera Locust

Bill Baker makes motion to open public hearing  
Motion seconded by Jesse Kaufman  
Motion carries 4-0

Frank Phillip presents on behalf of his client Solomon Landau – 34 Cornell Peak along with additional applicant professionals.

Discussion that matter was before the Board in 2020-2021

Applicant was granted height variance previously and is now seeking variance for lot coverage.

**UNAPPROVED DRAFT**

Village Engineer Martin Spence asks that conditions are met prior to issuance of any permits.

Applicant states they need to go before the Planning Board for Site Plan review.

No comments from the public period or additional questions from Board members.

Motion to close public hearing made by Bill Baker

Motion seconded by Kevin Dock

Motion carries 4-0

Attorney David McCartney discusses the five factors and balancing test with the Board members.

Discussion ensues of the 9% increase in lot coverage not being inconsistent with variances previously approved by the Board.

Engineer Martin Spence states the site plan needs retention for mitigation of storm water run-off dated in his December 2020 report and states that his comments still apply.

Chairman Lamer states that although the variance is self-created it does not outweigh the other factors.

Motion to grant variance subject to review and approval of planning board along with compliance to Engineer report dated December 2020 made by Jesse Kaufman  
Motion seconded by Kevin Dock

Motion to authorize attorney to prepare resolution and for it to be signed accordingly made by Bill Baker

Motion seconded by Jesse Kaufman

Motion carries 4-0

Jesse Kaufman exits meeting

**UNAPPROVED DRAFT**

Motion to adjourn made by Bill Baker

Motion seconded by Kevin Dock

Motion carries 3-0-1

Jesse Kaufman not present

**UNAPPROVED DRAFT**

**UNAPPROVED DRAFT**

## RESOLUTION

Pomona Village Hall  
Pomona, New York

Landau, Solomon  
34 Cornell Peak  
25.09 - 1 - 2.3

PRESENT: Alan Lamer – Chairman  
Allan Dubow  
Alma Roman

On January 27, 2021, the following resolution was offered by Allan Dubow, who moved its adoption, seconded by Alan Lamer:

WHEREAS, an application was submitted to this Board on behalf of the property owner, Solomon Landau, for a variance from the provisions of Sec. 130-12(I) of the Code of the Village of Pomona, to permit the development of the subject lot with a single family home providing a structure measuring 44 feet in one elevation, whereas the permitted maximum height is 35 feet; and

WHEREAS, the subject premises are located at 34 Cornell Peak, designated on the Tax Map as Section 25.09, Block 1, Lot 2.3, in an R-40 Zoning District; and

WHEREAS, a public hearing was conducted and the Board accepted evidence and heard testimony; and

WHEREAS, this is a Type II Action under SEQRA, and

WHEREAS, the Village of Pomona Zoning Board of Appeals having considered the evidence presented at the public hearing, has made the following findings:

The applicant is the owner of the subject premises, upon which he proposes to construct a new single-family home. The applicant submitted a site plan dated May 6, 2019 and a series of architectural and engineering plans dated August 28, 2020, regarding the proposed project. Pursuant to the proposed plans, the front elevation on one part of the home is measured pursuant to Village Code to be 44 feet high, but the Village of Pomona Zoning Code permits a maximum height of 35 feet. The average height of the structure is well below the 35 foot maximum requirement, but the one front elevation, due primarily to the topography of the site, does measure 44 feet, so the applicant is requesting a variance to permit the construction pursuant to the plans submitted.

The plans were reviewed by professionals engaged on behalf of the Village, including the Village Engineer, Martin K. Spence, P.E. Mr. Spence issued a review memorandum dated

applicant subsequently complied and submitted a planting plan prepared by landscape architect, Daniel Sherman, dated January 8, 2021 (the plans submitted contain a typographical error in regard to the date and inadvertently list year as 2020). The Board was satisfied, upon hearing the proof and in reviewing the planting plan, that the subject plantings adequately mitigate any negative impact the height variance may have on the adjoining properties, while balancing the interests and the benefit sought by the applicant.

Testimony of various neighboring property owners was received and all was thoroughly considered by the Board, along with the proof presented by the applicant and the Village's consulting professionals.

Having considered and weighed all the proof, this Board finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, on the conditions set forth below. In making this finding, the Board has considered the following:

1. There was no evidence presented that the proposed variance would produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The home as proposed works and harmonizes with the topography in that location, based on the plans submitted.
2. There are alternative structures which could be constructed on the property, but there was no proof of any that would achieve the benefit sought by the applicant herein, given the unique topography and local conditions present.
3. The variance sought is substantial in terms of percentages and feet, but the impact is mitigated by the planting plan and the unique conditions in that location, and the fact that the height only exceeds the maximum in only the one isolated front elevation and the remainder of the structure is all at or below the permitted maximum.
4. The proposed variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
5. The difficulty was self-created, but the circumstances are greatly mitigated by the unique and challenging topography in that location coupled with the manner in which the Code requires building height to be measured. This factor is also not determinative of the matter under Village Law.

**Conditions:**

1. The applicant shall comply substantially with Site Plan dated May 6, 2019, the Architectural and Engineering Plans dated August 28, 2020, and the Planting Plan prepared by landscape architect, Daniel Sherman, dated January 8, 2021;
2. The applicant shall comply with all other comments in the December 10, 2020 memorandum of Martin Spence prior to the issuance of any building permit;

... shall obtain any and all other required permits prior to the issuance of a certificate of occupancy.

The variance granted on the conditions imposed herein is the minimum necessary and adequate while at the same time preserving and protecting the character of the neighborhood and the health, safety and welfare of the community.

WHEREAS, on roll call a vote was taken on the foregoing Resolution approving the variances sought and each member voted as follows:

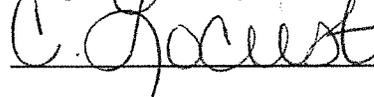
|                     | <u>Yes</u> | <u>No</u> | <u>Absent</u> | <u>Abstain</u> |
|---------------------|------------|-----------|---------------|----------------|
| Alan Lamer, Chaiman | <u>X</u>   | —         | —             | —              |
| Kevin Dock          | —          | —         | <u>X</u>      | —              |
| Alma Roman          | <u>X</u>   | —         | —             | —              |
| Allan Dubow         | <u>X</u>   | —         | —             | —              |
| Gerald Inman        | —          | —         | <u>X</u>      | —              |

Dated: January 27, 2021

  
Alan Lamer - Chairman

A copy of this Resolution was filed in the Office of the Clerk of the Village of Pomona, New York, February 23, 2021.

Village Clerk, Village of Pomona

  
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- End -