

VILLAGE OF POMONA
Zoning Board of Appeals
January 26, 2022
7: 30 PM

Join Zoom Meeting

<https://us02web.zoom.us/j/89114412548?pwd=YnFLKzIBdnMyNEEzbGlmem5VYXFhdz09>

Meeting ID: 891 1441 2548

Passcode: 335695

One tap mobile

+19292056099 (New York)

Meeting ID: 891 1441 2548

Find your local number: <https://us02web.zoom.us/j/89114412548?pwd=YnFLKzIBdnMyNEEzbGlmem5VYXFhdz09>

AGENDA

SALUTE

PUBLIC HEARING – 24 OLD POMONA ROAD

To permit the construction of an in ground pool, providing 21.3% of lot coverage whereas the permitted maximum is 10% and lot width provided is 128.4 feet whereas the minimum required is 150 feet.

OPEN PERIOD

MOTION TO ADJOURN

UNAPPROVED DRAFT

VILLAGE OF POMONA
100 Ladentown Road
Pomona, NY 10970



Tel: 845-354-0545
Fax: 845-354-0604
e-mail: info@pomonavillage.com
www.pomonavillage.com

VILLAGE OF POMONA
ZBA MEETING/PUBLIC HEARING
JANUARY 26, 2022
7:30 PM

Present

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

Chairman Lamer calls meeting to order regarding public hearing for 24 Old Pomona Road.

Mr. Ball presents on behalf of applicant

Engineering comments addressed.

Landscaping and drainage plan discussed.

County Planning comments discussed regarding bulk table requirements and notice requirements.

Permeable pavers discussion and how development coverage would be reduced with the pavers along as the need for a drainage system due to the permeable pavers.

Applicant agrees to the usage of permeable pavers.

16.5% lot coverage discussed.

UNAPPROVED DRAFT

Attorney David McCartney discusses on open record the conditions to approve would contain the use of permeable pavers. The development coverage for 16.5% lot coverage subject to further approval and engineering review along with landscaping plan to be approved by engineer.

Discussion of preexisting non-conforming condition of lot width variance.

No County override needed

Motion to close made by Deputy Chair Kevin Dock.

Motion seconded by Jesse Kaufman

Motion carries 4-0

Five factors and balancing test discussed.

Motion to approve lot width variance and to approve 16.5% lot coverage subject to discussed conditions

Motion made by Deputy Chair Kevin Dock

Motion seconded by Bill Baker

Motion carried 4-0

Motion to approve attorney to prepare resolution and it to be signed

Motion made by Deputy Chair Kevin Dock

Motion Seconded by Jesse Kaufman

Motion carried 4-0

Meeting closed

VILLAGE OF POMONA
ZONING BOARD OF APPEALS

RESOLUTION

Pomona Village Hall
Pomona, New York

GENUTH, ESTHER
24 Old Pomona Road
32.20-2-6.1

PRESENT: Alan Lamer – Chairman
Kevin Dock
Jesse Kaufman
William Baker
Alma Roman - Absent

On January 26, 2022, the following resolution was offered by Kevin Dock, who moved its adoption, seconded by Jesse Kaufman:

WHEREAS, an application was submitted to this Board on behalf of the property owner, ESTHER GENUTH, for a variance from the provisions of Sections 130-12(I) and (C) of the Code of the Village of Pomona, to permit the construction of an in-ground pool, providing 22.9% of lot coverage (amended during the public hearing to request 16.5% as set forth below) whereas the permitted maximum on this lot per prior restrictions is 10%, and pre-existing lot width provided is 128.4 feet whereas the minimum required is 150 feet, on premises located at 24 Old Pomona Road in the Village of Pomona, designated on the Tax Map as Section 32.20, Block 2 Lot 6.1, in an R-40 Zoning District; and

WHEREAS, a public hearing was conducted, the Board accepted evidence and heard testimony on behalf of the applicant and the public, and the public hearing was duly closed at the conclusion thereof; 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 subject premises are located on Old Pomona Road and are presently improved with a two story single family home. The applicant proposes to install a new in-ground pool in the rear yard, measuring 20' x 42', and surrounded by a hardscape patio. The total lot area is 35,966 ft.² and the lot is irregularly shaped, with a triangular extension off to the east. The applicant also owns the lot immediately adjacent to the subject lot to the east.

The original application proposed total lot coverage, when including the new pool and the new patio, of 8,220 ft.², for a total of 22.9% of lot coverage. The maximum lot coverage

UNAPPROVED DRAFT

permitted in that zoning district generally is 15%, so the applicant originally applied for a variance for maximum permitted development coverage using the 15% requirement as the baseline. The lot is also pre-existing, nonconforming in regard to the lot width, providing 128.4 feet whereas the current Code requires a minimum of 150 feet. As a result of the proposed new improvements on the premises, a variance for that pre-existing lot width condition is therefore also requested.

When the application was originally submitted, the permitted maximum development coverage of 15% was placed in the bulk table and the matter was noticed for a public hearing based on the maximum permitted coverage of 15%. When the matter was sent to Rockland County Department of Planning for the GML review, however, County Planning noted that the original approval of this particular subdivision many years ago was for a cluster subdivision in which a 10% maximum lot coverage was applied. Accordingly, the application was subsequently amended, the public hearing re-noticed, and the bulk table amended to reflect that the maximum permitted lot coverage is 10%.

During the pendency of the public hearing, the applicant also agreed to make a variety of changes which reduced the requested lot coverage and its potential impacts. First, she redesigned the location of the pool, moving it away from the easterly side property line and creating more green space between the patio and the property line. Additionally, the applicant reduced the size of the patio itself, which resulted in a reduction of the lot coverage of approximately 600 ft.² An updated plan submitted with the reduced patio size provided 21.3% (7,654 ft.²) of lot coverage.

Thereafter, the applicant further agreed to utilize permeable pavers for the entire pool patio, which provides a substantial reduction in the lot coverage as well. With the use of permeable pavers, the lot coverage computes to 16.5%, which is substantially lower than the 21.3% which otherwise would have been requested based on the updated plan.

The applicant also agreed to provide landscaping and screening as a mitigation measure and as a condition of a grant. As a condition hereof and to the issuance of any building permit, the applicant is required to submit an appropriate landscaping and screening plan to the satisfaction of the Village Engineer. Additionally, the applicant has committed to designing and implementing an appropriate drainage system as a condition of the grant of a variance herein and the issuance of any building permit.

All of the comments of the County Planning Department in its review letter have been fully complied with.

No objections or any comments from the referenced neighboring municipalities have been received.

Having considered and weighed all the proof, this Board finds that the benefit to the applicant if the variances to permit lot coverage of 16.5% and for the pre-existing lot width of 128.4 feet are 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. The said

variance 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. In making these findings, 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. There are no changes to the property that would be visible in any significant way from Old Pomona Road. The single family home will stay as is. The pool was appropriately located in the rear yard, and the patio and pool are both modest and appropriate for the size, configuration, and topography of this particular lot in this particular location. The applicant also owns the property immediately to the east, and in any event, has agreed to provide an appropriate landscaping plan and screening to further mitigate any possible negative visual impacts from the pool and patio. Additionally, by agreeing to use permeable pavers, the pool will be environmentally friendly and the applicant was able to significantly reduce the variance sought.
2. There was no evidence produced at the hearing of any feasible alternative, that would not also require a variance, or that would require less of a variance. The applicant reduced the patio in response to comments from the Board and agreed to utilize permeable pavers. The applicant has not provided any additional lot coverage that is not immediately necessary for their ordinary use and enjoyment of the pool (e.g., they have decided not to add a walkway to the patio, which would have added even more to the lot coverage, etc.) and they have reduced the variances sought as much as possible.
3. The variances sought are not substantial enough to warrant a denial, given the mitigating factors herein.
4. The proposed variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood, conditioned upon the design of implementation of appropriate engineering and drainage, which is made a condition hereof
5. The difficulty relating to the lot width was not self-created but the desire to add a pool given the code deficiencies is. Although the difficulty relating to the lot coverage is self-created insofar as it is precipitated by the desire to improve the property with the pool and patio, this factor is not itself determinative of this matter.

Conditions:

1. The applicant shall design and implement a landscaping and screening plan to the satisfaction of the Village Engineer.
2. The applicant shall design and implement appropriate engineering and drainage plans and to the satisfaction of the Village Engineer.
3. The applicant shall use permeable materials only for the patio surrounding the pool.
4. The applicant is limited to a maximum of 16.5% lot coverage.
5. The applicant shall comply substantially with the plans submitted dated last revised on January 3, 2022.

6. The Applicant shall pay all due fees prior to the issuance of any building permit or certificate of use/occupancy.
7. The Applicant shall comply with all other applicable laws, rules and regulations and obtain any and all other required permits prior to the issuance of a certificate of occupancy.

NOW, therefore, variances to allow lot coverage of 16.5% and a lot width of 128.4 feet ft.² are hereby granted on the conditions imposed herein.

On roll call a vote was taken on the foregoing Resolution approving the variance sought and each member voted as follows:

	<u>Yes</u>	No	Absent	<u>Abstain</u>
Alan Lamer, Chairman	<u>X</u>	—	—	—
Kevin Dock	<u>X</u>	—	—	—
Alma Roman	—	—	<u>X</u>	—
Jesse Kaufman	<u>X</u>	—	—	—
William Baker	<u>X</u>	—	—	—

Dated: January 26, 2022

Alan Lamer – Chairman

A copy of this Resolution was filed in the Office of the Clerk of the Village of Pomona, New York, _____, 2022.

Village Clerk, Village of Pomona

- End -