

**VILLAGE OF POMONA
ZONING BOARD OF APPEALS MEETING
JANUARY 22, 2025 – 7:30PM**

PRESENT:

Jesse Kaufman, Zoning Board of Appeals Chairman

Alan I. Lamer, Zoning Board Member

Bill Baker, Zoning Board Member

Kevin Dock, Zoning Board Member

ALSO PRESENT:

David MacCartney, Village Attorney

Jenna Antoine, Village Clerk

ABSENT:

Martin Spence, Village Engineer

Louis Zummo, Village Building Inspector

Jesse Kaufman called the meeting to order at 7:38 pm.

Bill Baker made a motion to approve the Meeting Minutes from December 18, 2024. The motion was seconded by Kevin Dock. Upon vote, the motion was carried by all present, passes 4-0.

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 in the Village of Pomona

Tax Map as Section 32.08, Block 1, Lots 53, 54, and 55.2, and Section 32.12, Block 1, Lots 25, 26, 27, 28, 29.1, 29.2, 30, 31, and 33

12 parcels of land totaling 119.55 acres

The above applicant went before the board for the below 3 applications:

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Appeal of Denial Determination of Building Inspector for Special Use Permit Application

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Appeal of Denial Determination of Building Inspector for Site Plan Application

Congregation Rabbinical Institute of Tartikov, Inc. - 65-67 Route 306 – Use Variance Application

The below people were present to represent the above applicant:

Attorney, Daniel Ruzow from Whiteman Osterman & Hanna LLP. Address is 1 Commerce Plaza 19th floor, Albany, NY 12260.

Dennis Rocks from Brooker Engineering PLLC. Address is 74 Lafayette Ave #501, Suffern, NY 10901.

Attorney, Joseph Churgin from Savad Churgin. Address is 55 Old Nyack Turnpike # 209, Nanuet, NY 10954.

Attorney, Donna Sobel from Savad Churgin. Address is 55 Old Nyack Turnpike # 209, Nanuet, NY 10954.

David MacCartney asked the entire Board if they all had time to review the EAF Parts 2 and 3, along with the resolutions issuing a negative declaration under SEQRA, for each of the above 3 applications that are before the Board, for the above applicant. The entire Board said yes, they each were able to review the above and are ready to make a motion and vote on the matter.

Kevin Dock made a motion to approve the below resolution. The motion was seconded by Bill Baker.

ZONING BOARD OF APPEALS OF THE VILLAGE OF POMONA

**RESOLUTION ADOPTING EAF PARTS 2 AND 3
AND ISSUING NEGATIVE DECLARATION
UNDER SEQRA**

DATE: January 22, 2025

**APPLICANT: Congregation Rabbinical Institute of Tartikov Inc.
APPLICATION: APPEAL OF SITE PLAN DENIAL**

WHEREAS, on or about July 24, 2024, this Board resolved to, among other things, (1) classify the Applicant's proposed project as a whole as a Type 1 Action under SEQRA, (2) conduct a segmented review under SEQRA as authorized by 6 NYCRR § 617.3(g)(1), confined to a review and determination of the environmental impacts, if any, of permitting the proposed rabbinical institute to be unaccredited as opposed to accredited, and to not review the overall environmental impacts of the construction and development of the proposed project as a whole, such review to be conducted by the Village Planning Board and/or the Village Board if this Board were to grant the application herein to permit an unaccredited rabbinical institute, and (3) declare its intent to assume Lead Agency status; and

WHEREAS, upon further review and consideration, on September 25, 2024, this Board resolved to rescind that portion of the aforementioned July 24, 2024, Resolution, which directed that notice of intent be issued to all involved agencies, and resolved to assume Lead Agency status under SEQRA for its limited segmented review; and

WHEREAS, a Public Hearing was duly noticed, conducted pursuant to law, and closed on November 20, 2024; and

WHEREAS, this Board has reviewed Part 1 of the Full Environmental Assessment Form (EAF) provided by the applicant and has prepared and reviewed the annexed EAF Part 2 based on the segmented action under environmental review by this Board being confined to and defined as only the request for a waiver of or exemption from the accreditation requirement, to allow the institution proposed to be unaccredited as opposed to accredited as required by Code, which, as previously resolved is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA (6 NYCRR § 617.5(c)(37), and concerns primarily the validity of the subject Code section and the administrative nature of the use proposed and not the environmental impacts of the project as a whole; and

WHEREAS, the Zoning Board of Appeals has thoroughly reviewed and considered the complete Application and all materials submitted therewith including but not limited to all submissions from or on behalf of the Applicant and all the testimony

and evidence presented before it, and has identified and taken a hard look at all relevant areas of environmental concern of the action as defined, and has prepared and reviewed the annexed EAF Part 3, the contents of which are incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED that

1. Each and every “WHEREAS” clause above is incorporated herein as if fully set forth herein;
2. The Zoning Board of Appeals has completed and hereby adopts the annexed EAF Parts 2 and 3 which are attached hereto and made a part hereof, based on the proposed action being authorization from this Board for applicant's proposed rabbinical institute to be unaccredited as opposed to accredited, and the full contents of both the EAF Part 2 and 3 are incorporated herein by reference as if fully set forth herein; and
3. For the reasons set forth in Part 3 of the EAF, incorporated herein by reference, the Zoning Board of Appeals hereby finds that the proposed segmented action (permitting the applicant’s rabbinical institute to be unaccredited based on the points and authorities cited by the applicant), is not itself anticipated to result in any significant adverse environmental impacts, as the action is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA.
4. An Environmental Impact Statement need not be prepared and a Negative Declaration is therefore hereby issued and adopted on the narrow segmented issue considered.

A motion was made and seconded to approve and adopt the foregoing Resolution and same was duly put to a vote, which resulted as follows:

	Yes	No	Absent	Abstain
Jesse Kaufman, Chairman	<u> x </u>	___	___	___
Alan Lamer	<u> x </u>	___	___	___
Kevin Dock	<u> x </u>	___	___	___
Bill Baker	<u> x </u>	___	___	___

Dated: January 22, 2025

Bill Baker made a motion to approve the below resolution. The motion was seconded by Alan Lamer.

ZONING BOARD OF APPEALS OF THE VILLAGE OF POMONA

**RESOLUTION ADOPTING EAF PARTS 2 AND 3
AND ISSUING NEGATIVE DECLARATION
UNDER SEQRA**

DATE: January 22, 2025

**APPLICANT: Congregation Rabbinical Institute of Tartikov Inc.
APPLICATION: APPEAL OF SPECIAL PERMIT DENIAL**

WHEREAS, on or about July 24, 2024, this Board resolved to, among other things, (1) classify the Applicant's proposed project as a whole as a Type 1 Action under SEQRA, (2) conduct a segmented review under SEQRA as authorized by 6 NYCRR § 617.3(g)(1), confined to a review and determination of the environmental impacts, if any, of permitting the proposed rabbinical institute to be unaccredited as opposed to accredited, and to not review the overall environmental impacts of the construction and development of the proposed project as a whole, such review to be conducted by the Village Planning Board and/or the Village Board if this Board were to grant the application herein to permit an unaccredited rabbinical institute, and (3) declare its intent to assume Lead Agency status; and

WHEREAS, upon further review and consideration, on September 25, 2024, this Board resolved to rescind that portion of the aforementioned July 24, 2024, Resolution, which directed that notice of intent be issued to all involved agencies, and resolved to assume Lead Agency status under SEQRA for its limited segmented review; and

WHEREAS, a Public Hearing was duly noticed, conducted pursuant to law, and closed on November 20, 2024; and

WHEREAS, this Board has reviewed Part 1 of the Full Environmental Assessment Form (EAF) provided by the applicant and has prepared and reviewed the annexed EAF Part 2 based on the segmented action under environmental review by this Board being confined to and defined as only the request for a waiver of or exemption from the accreditation requirement, to allow the institution proposed to be unaccredited as opposed to accredited as required by Code, which, as previously resolved is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA (6 NYCRR § 617.5(c)(37), and concerns primarily the validity of the subject Code section and the administrative nature of the use proposed and not the environmental impacts of the project as a whole; and

WHEREAS, the Zoning Board of Appeals has thoroughly reviewed and considered the complete Application and all materials submitted therewith including but

not limited to all submissions from or on behalf of the Applicant and all the testimony and evidence presented before it, and has identified and taken a hard look at all relevant areas of environmental concern of the action as defined, and has prepared and reviewed the annexed EAF Part 3, the contents of which are incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED that

5. Each and every “WHEREAS” clause above is incorporated herein as if fully set forth herein;
6. The Zoning Board of Appeals has completed and hereby adopts the annexed EAF Parts 2 and 3 which are attached hereto and made a part hereof, based on the proposed action being authorization from this Board for applicant's proposed rabbinical institute to be unaccredited as opposed to accredited, and the full contents of both the EAF Part 2 and 3 are incorporated herein by reference as if fully set forth herein; and
7. For the reasons set forth in Part 3 of the EAF, incorporated herein by reference, the Zoning Board of Appeals hereby finds that the proposed segmented action (permitting the applicant’s rabbinical institute to be unaccredited based on the points and authorities cited by the applicant), is not itself anticipated to result in any significant adverse environmental impacts, as the action is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA.
8. An Environmental Impact Statement need not be prepared and a Negative Declaration is therefore hereby issued and adopted on the narrow segmented issue considered.

A motion was made and seconded to approve and adopt the foregoing Resolution and same was duly put to a vote, which resulted as follows:

	Yes	No	Absent	Abstain
Jesse Kaufman, Chairman	<u> x </u>	___	___	___
Alan Lamer	<u> x </u>	___	___	___
Kevin Dock	<u> x </u>	___	___	___
Bill Baker	<u> x </u>	___	___	___

Dated: January 22, 2025

Bill Baker made a motion to approve the below resolution. The motion was seconded by Kevin Dock.

ZONING BOARD OF APPEALS OF THE VILLAGE OF POMONA

**RESOLUTION ADOPTING EAF PARTS 2 AND 3
AND ISSUING NEGATIVE DECLARATION
UNDER SEQRA**

DATE: January 22, 2025

**APPLICANT: Congregation Rabbinical Institute of Tartikov Inc.
APPLICATION: USE VARIANCE**

WHEREAS, on or about July 24, 2024, this Board resolved to, among other things, (1) classify the Applicant's proposed project as a whole as a Type 1 Action under SEQRA, (2) conduct a segmented review under SEQRA as authorized by 6 NYCRR § 617.3(g)(1), confined to a review and determination of the environmental impacts, if any, of permitting the proposed rabbinical institute to be unaccredited as opposed to accredited, and to not review the overall environmental impacts of the construction and development of the proposed project as a whole, such review to be conducted by the Village Planning Board and/or the Village Board if this Board were to grant the application herein to permit an unaccredited rabbinical institute, and (3) declare its intent to assume Lead Agency status; and

WHEREAS, upon further review and consideration, on September 25, 2024, this Board resolved to rescind that portion of the aforementioned July 24, 2024, Resolution, which directed that notice of intent be issued to all involved agencies, and resolved to assume Lead Agency status under SEQRA for its limited segmented review; and

WHEREAS, a Public Hearing was duly noticed, conducted pursuant to law, and closed on November 20, 2024; and

WHEREAS, this Board has reviewed Part 1 of the Full Environmental Assessment Form (EAF) provided by the applicant and has prepared and reviewed the annexed EAF Part 2 based on the segmented action under environmental review by this Board being confined to and defined as only the request for a waiver of or exemption from the accreditation requirement, to allow the institution proposed to be unaccredited as opposed to accredited as required by Code, which, as previously resolved is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA (6 NYCRR § 617.5(c)(37), and concerns primarily the validity of the subject Code section and the administrative nature of the use proposed and not the environmental impacts of the project as a whole; and

WHEREAS, the Zoning Board of Appeals has thoroughly reviewed and considered the complete Application and all materials submitted therewith including but

not limited to all submissions from or on behalf of the Applicant and all the testimony and evidence presented before it, and has identified and taken a hard look at all relevant areas of environmental concern of the action as defined, and has prepared and reviewed the annexed EAF Part 3, the contents of which are incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED that

9. Each and every “WHEREAS” clause above is incorporated herein as if fully set forth herein;
10. The Zoning Board of Appeals has completed and hereby adopts the annexed EAF Parts 2 and 3 which are attached hereto and made a part hereof, based on the proposed action being authorization from this Board for applicant's proposed rabbinical institute to be unaccredited as opposed to accredited, and the full contents of both the EAF Part 2 and 3 are incorporated herein by reference as if fully set forth herein; and
11. For the reasons set forth in Part 3 of the EAF, incorporated herein by reference, the Zoning Board of Appeals hereby finds that the proposed segmented action (permitting the applicant’s rabbinical institute to be unaccredited based on the points and authorities cited by the applicant), is not itself anticipated to result in any significant adverse environmental impacts, as the action is akin to a request for interpretation of an existing code, rule or regulation which would be classified a Type II action under SEQRA.
12. An Environmental Impact Statement need not be prepared and a Negative Declaration is therefore hereby issued and adopted on the narrow segmented issue considered.

A motion was made and seconded to approve and adopt the foregoing Resolution and same was duly put to a vote, which resulted as follows:

	Yes	No	Absent	Abstain
Jesse Kaufman, Chairman	<u> x </u>	___	___	___
Alan Lamer	<u> x </u>	___	___	___
Kevin Dock	<u> x </u>	___	___	___
Bill Baker	<u> x </u>	___	___	___

Dated: January 22, 2025

David MacCartney asked the entire Board if they all had time to review both the approval and denial resolutions that were prepared by him for the above applicant. Both of the two resolutions were for all 3 applications that were submitted by the applicant. The entire Board said yes, they each were able to review the above and are ready to make a motion and vote on the matter. All of the Board members said that the Village Attorney, David MacCartney did a very good job preparing each of the resolutions.

**VILLAGE OF POMONA
ZONING BOARD OF APPEALS**

**RESOLUTION DENYING USE VARIANCE APPLICATION AND DENYING APPEALS
OF BUILDING INSPECTOR'S DENIALS OF SITE PLAN AND SPECIAL PERMIT
APPLICATIONS**

Pomona Village Hall

Pomona, New York

Congregation Rabbinical

Institute of Tartikov Inc.

Route 306, Pomona, NY

Tax parcels 32.08-1-53, 54,

55.2, and 32.12-1-25, 26, 27,

**28, 29.1, 29.2, 30, 31, and
33.**

PRESENT: Jesse Kaufman - Chairman

Alan Lamer

Kevin Dock

Bill Baker

On January 22, 2025, the following resolution was offered by Alan Lamer, who moved its adoption, seconded by Bill Baker:

WHEREAS, three applications were submitted to this Board on behalf of the property owner, Congregation Rabbinical Institute of Tartikov, Inc., in connection with its proposal to construct, develop, and operate an unaccredited rabbinical institute with accessory adult student housing on 12 parcels of land totaling 119.55 acres described by street address as 65-67 Route 306 in the Village of Pomona, designated on the Tax Map as Tax parcels 32.08-1-53, 54, 55.2, and 32.12-1-25, 26, 27, 28, 29.1, 29.2, 30, 31, and 33, and situated in the R-40 Zoning District, including, respectively: (1) an application for use variance(s); (2) an appeal of the Building Inspector's denial of its Site Plan application; and (3) an appeal of the Building Inspector's denial of its Special Use Permit application; and

WHEREAS, a public hearing was duly noticed and conducted concurrently on all three applications on July 24, September 25, and November 20, 2024, and was duly closed at the conclusion thereof; and

WHEREAS, on or about July 24, 2024, this Board resolved to conduct a segmented review under SEQRA as authorized by 6 NYCRR § 617.3(g)(1), confining its review and determination to the environmental impacts, if any, of permitting the proposed rabbinical institute to be unaccredited as opposed to accredited and not the overall environmental impacts of the construction and development of the proposed project as a whole, and further resolved on that same date that if the relief sought in the Application before this Board were to be granted and the institute permitted to be unaccredited, the project as a whole would then necessarily proceed to [i] the Village Planning Board for a full substantive and environmental review of the Site Plan application under all standards relevant to that Board's review, and [ii] the Village Board for a full substantive and environmental review of the Special Permit application under all standards relevant to that Board's review, where the respective substantive and environmental reviews would be fully protective of the environment notwithstanding the limited segmented review to be conducted by this Board; and

WHEREAS, on or about September 25, 2024, this Board resolved to assume Lead Agency status under SEQRA in relation to its limited segmented review; and

WHEREAS, on January 22, 2025, this Board adopted Part 2 of the EAF and issued a negative declaration on its limited segmented SEQRA review; and

WHEREAS, the Village of Pomona Zoning Board of Appeals, having considered the evidence presented at the public hearing, makes the following findings and conclusions:

The applicant is the owner of the subject property which consists of 12 parcels of land totaling 119.55 acres described by street address as 65-67 Route 306 in the Village of

Pomona, designated on the Tax Map as Tax parcels 32.08-1-53, 54, 55.2, and 32.12-1-25, 26, 27, 28, 29.1, 29.2, 30, 31, and 33, and situated in the R-40 Zoning District. The applicant proposes to construct, develop, and operate an unaccredited rabbinical institute with accessory adult student housing. The proposal is for a 15-year program of study for adult males to live on site with their families in 255 housing units.

There is a long history of litigation between the applicant and the Village of Pomona and its Trustees, all of which is a matter of public record. By motion during the public hearing, all prior court proceedings between the applicant and the Village were incorporated into the hearing record by reference.

In broad summary, the applicant's long-pending litigation against the Village and its Board of Trustees challenged two Village Zoning Laws: Local Law No. 1 of 2001 and Local Law No. 5 of 2004.

Local Law No. 1 of 2001 permitted "Educational Institutions" within the Village by special permit, and defined the term to include kindergartens, primary, and secondary schools that were operated and licensed under New York law. Local Law No. 5 of 2004 relaxed various provisions of the Zoning Code related to Educational Institutions. It expanded the definition of "Educational Institution" to include "any private or religious elementary, junior high or high school, college, graduate or post-graduate school conducting a full-time curriculum of instruction a minimum of five days per week for seven months per year and accredited by the New York State Education Department or similar recognized accrediting agency." See Zoning Code §130-4.

In 2019, the United States Court of Appeals for the Second Circuit (the Second Circuit") dismissed the applicant's claims because among other things the applicant had at that time not submitted a formal proposal for its building project, applied for a permits, or engaged in any other conduct sufficient to invoke the Court's jurisdiction. The applicant thereafter submitted a petition to the Village Board of Trustees seeking a zone text amendment repealing the challenged 2001 and 2004 Local Laws. When the Village did not approve that petition, the applicant sued again. In 2022, the Second Circuit dismissed the applicant's claims because there was no concrete proposal and found it had no jurisdiction.

The applicant subsequently submitted another petition for a zone text amendment to the Village Board for a Zone Change and the Board of Trustees did not undertake of the petition.

The applicant also submitted a Site Plan application and a Special Use Permit application dated October 19, 2023 for an unaccredited educational institution. By letter dated April 1, 2024, the Village Building Inspector, Louis M. Zummo, denied the Special Permit and Site Plan applications on the ground that the principal proposed use as "an unaccredited educational institution" is not a permitted use in the Village of Pomona

pursuant to Village Code §§ 130-9(A) and 130-4. Mr. Zummo further determined that any accessory uses, including the accessory dormitory use, cannot be considered without an approved principal use on the property. In his determination letter, he advised that for the proposed principal use as an unaccredited educational institution to be considered for approval, the applicant would need to first pursue a use variance from the Zoning Board of Appeals. The applicant had initially submitted variance applications at the same time as the Site Plan and Special Use Permit, but the initial variance applications were rejected as premature.

On April 26, 2024, following the denial of the Building Inspector, the applicant submitted three related applications before this Board, including [i] an application for a use variance to permit an unaccredited educational institution, [ii] an appeal from the denial of the Site Plan application, and [iii] an appeal from the denial of the Special Use Permit application. All three applications essentially seek the same relief, to wit, a reversal of the Building Inspector's denial of the Site Plan and Special Use Permit applications based on a proposed finding by this Board that the subject property may be used as an unaccredited educational institution, subject to Site Plan by the Planning Board and Special Use Permit review and approval by the Village Board. Stated otherwise, the applicant requests this Board to exempt it from the accreditation requirement in §130-4 of the Zoning Code.

In support of each application, the applicant has submitted, among other things, an application and narrative setting forth in detail all the points and authorities it asserts favor the grant of the relief sought, and various testimony and other proof was submitted and considered.

The Board has reviewed the application and the hearing record, and upon consideration of same, hereby makes the following findings and conclusions:

This Board's consideration of an application for a use variance is governed in the first instance by New York State Village Law § 7-712-b, which provides as follows:

No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(4) that the alleged hardship has not been self-created.

Village Law § 7-712-b.

Here, the applicant has not made any showing or presented any proof in support of any of these statutorily mandatory considerations and factors. There is no question here that the applicant could not possibly meet those statutory criteria for the grant of a use variance, particularly given the fact that there are clearly many economically viable uses of this expansive property other than as an unaccredited educational institution. Further, there can be no question that the hardship is self-created as the applicant acquired the property over three years after the enactment of Local Law No. 1 of 2001 which implemented an accreditation requirement for educational institutions. Shortly after Tartikov purchased the property, the Village adopted Local Law No. 5 of 2004, which liberalized the accreditation requirement by allowing accreditation by accrediting agency similar to the New York State Department of Education. Accordingly, the applicant certainly knew or should have known of the unambiguous accreditation requirement prior to its purchase and proposed development on the subject parcel.

Rather, as it is undisputed that the applicant cannot meet the traditional statutory use variance criteria, the applicant asserts that those criteria do not apply. The applicant asserts as the essential foundation for the relief sought that its proposed educational institution “cannot be accredited” by the New York State Education Department or similar recognized accrediting agency as required by the Village Code. It argues that even though it cannot get accredited by any recognized accrediting agency anywhere, the alleged religious and educational nature of its use exempts it from both the Village Code accreditation requirement and the traditional New York State Village Law use variance standards. It argues that the Village’s accreditation requirement imposes a substantial burden on the applicant’s religious exercise if enforced. It argues, therefore, that this Board is legally required to exempt the applicant from the accreditation requirement in the Code and allow it to operate on the basis of its proposed unaccredited 15-year course of rabbinical study with the male adult students and their families all living in the proposed 255 residential units which comprise the vast majority of the development space and structures on the property.

Although the foundation of its request for relief rests upon the assertion that it cannot be accredited, the applicant admitted at the hearing that it has never actually applied for accreditation from any accrediting agency. The applicant asserted only that it “made inquiry” and was told it could not be accredited. The applicant said it was told that it must first be operational for two years before being eligible for accreditation, but the

Village Code accreditation requirement was a barrier to it operating for the requisite two years. The applicant alleged that the Village Code accreditation requirement itself caused its inability to be accredited because it could not operate.

Upon further inquiry from the Board to the applicant regarding its inquiry and efforts to be accredited, the applicant confirmed that it had received a letter from an accrediting agency. The applicant produced to the Board during the hearing a letter dated January 9, 2008 from the Association of Advanced Rabbinical and Talmudic Schools (“AARTS”), which is an entity that in fact accredits advanced Rabbinical and Talmudic post-secondary schools of the same type and kind as the applicant, as confirmed by that entity’s public web site - <https://aarts.org/>. As set forth therein:

AARTS establishes and promotes academic and administrative guidelines and best practices. The AARTS' member institutions are governed by an Executive Committee comprised of Roshei Yeshiva and public members. The Accreditation Commission of AARTS accredits and monitors AARTS member institutions through peer review and the diligent application of its standards, fostering and maintaining accountability and enhancements. The Accreditation Commission of AARTS has been recognized by the United States Department of Education as a national accreditor of advanced rabbinical and Talmudic post-secondary schools since 1974.

According to its website, AARTS has accredited 80 Rabbinical educational institutions, 58 of which are located in the State of New York. See <https://www.chea.org/association-advanced-rabbinical-and-talmudic-schools-accreditation-commission>.

The January 9, 2008 AARTS letter lists three reasons why the applicant was not eligible at that time for accreditation by AARTS. The letter states:

First and foremost, the fact that you admit students into your school without an admissions test or other examination, is not consistent with our General Criteria (page 8 of our Handbook) which require that the school establish that the student has the prerequisite knowledge and skills mentioned there.

In addition to that first-listed reason, the AARTS letter also cited the fact that the applicant was not offering a broad enough variety of programs in core Talmudic studies, as well as the fact that the organization had not been operating for two continuous years with any faculty, curriculum, student services, or record-keeping facilities.

The applicant produced no written proof as to what the current AARTS standards are or whether they have been strengthened or relaxed, although they verbally suggested that the standards were the same or similar now as they were back in 2008. Nonetheless,

the applicant has never applied nor did they obtain or submit to this Board any updated or more current letter concerning any accreditation inquiry since 2008.

The applicant also did not express any intent to make any adjustments to implement admission tests or examinations or broaden the 15-year curriculum sufficient to satisfy the alleged barriers to accreditation set forth prominently in the 2008 AARTS letter. The applicant stated that they have given no consideration to changing their operations to satisfy the cited impediments to accreditation which were otherwise directly within their own control.

Having given no consideration to making any such changes, such as adding admissions requirements or broadening their curriculum, the applicant also never claimed the exercise of their religion prevented them from doing so. The applicant never advocated at any time during the public hearing that it would cause a burden, let alone a substantial burden, on their religious exercise to implement an admission test or examination, or to tweak the curriculum to satisfy these AARTS requirements. Nowhere has the applicant explained why it cannot offer an admission test or what burden it would suffer, if any, if it had to alter its curriculum to comply with the AARTS requirements.

Stated otherwise, the applicant presented no religious or educational reason why it could not satisfy the requirements of accreditation set forth by AARTS in 2008 as many other rabbinical educational institutions have done to achieve AARTS accreditation. It is important to note that AARTS is not some secular accrediting agency applying arbitrary educational standards. AARTS has been a national accreditor of advanced rabbinical and Talmudic post-secondary schools since long before 2008 and its very purpose is a laudable one that echoes the benefits to be achieved by the Village's accreditation requirement, i.e., to monitor its member rabbinical institutions "through peer review and the diligent application of its standards, fostering and maintaining accountability and enhancements" in the educational pursuits of rabbinical institutes just like the applicant herein. See <https://aarts.org/>.

Rather than address these two other apparently solvable impediments to accreditation, the applicant argued that those impediments did not matter, since they could not be operational in this location for the requisite two years because of the Village's accreditation requirement. The applicant repeatedly advocated that any inquiry in this regard need go no further. The applicant did not offer any explanation for the conundrum that even if the institution operated for 10 years in the Village, the applicant still could not be accredited by AARTS since it fails "first and foremost" to implement admission requirements and lacks a curriculum that meets AARTS requirements.

The applicant did not present any evidence that they have ever sought to obtain a conditional or provisional accreditation from AARTS; i.e. adding an admission exam and

sufficiently tweaking the curriculum since there is no religious barrier to doing so, then seeking provisional or conditional accreditation subject to them then operating for the requisite two years. The applicant did not explain any factual basis for their failure to operate in at least some capacity elsewhere at any time, in rented space and/or on a limited basis sufficient to satisfy the operational requirement in another location that does not require accreditation to operate. They argued that it was unfair to ask them to do so when they had already purchased the subject property. However, they bought the subject property years after the Village had enacted an accreditation requirement, which the applicant would be appropriately charged with knowledge of since Local Law No. 1 of 2001 was enacted over three years prior to the applicant's purchase of the property. That Local Law prohibited them from operating there without the accreditation which they certainly knew they did not have.

Local Law No. 5 of 2004 in fact expanded the types of accrediting agencies that could satisfy the accreditation requirement to include not only the New York State Education Department, but also any "similar recognized accrediting agency." See Zoning Code §130-4. Then and now, the Zoning Code treats religious and secular institutions equally. The accreditation requirement achieves the exact objectives espoused by AARTS itself in its mission statement.

Unequivocally, the accreditation requirement does not single out religious uses, educational uses, or religious educational uses or institutes (let alone the applicant herein) for any disparate treatment or burden. The Code permits educational uses everywhere in the Village. It allows religious uses everywhere as well. This necessarily includes rabbinical institutions, which are allowed everywhere in the Village as well. Presuming they are otherwise in compliance with the Village Code, any of the 80 rabbinical institutions accredited by AARTS could make application to build and operate in the Village of Pomona. The Code does not burden the exercise of anyone's religion, let alone that of the applicant herein. It simply requires that such education institutions be accredited. The permissible accreditation is very broad as well – it can be by any recognized accrediting agency (religious or secular). Any recognized accrediting agency will engage qualified professionals, monitor operations, and apply considered standards so as to foster and maintain accountability and proper operation consistent with the mission they purport to espouse.

The Board fully recognizes the presumptively positive impact that religious and education uses are provided by law to have in residential neighborhoods. Indeed, this Board agrees with and applies those principles herein, in finding that educational and religious uses should be and are encouraged, including without hesitation religious education of all denominations. However, such religious educational institutions, including but certainly not limited to rabbinical institutes of the general type and kind proposed by the applicant herein, are required by Code to be accredited, for the very reasons AARTS

accredits rabbinical institutions across the entire country. Accreditation assures that schools and institutes, including religious institutes, meet established academic and operational standards to ensure a quality education. It assists in maintaining health, safety and welfare of the students, staff, and other persons frequenting the property without placing that burden in regard to such specialized uses solely on the municipality which may not have the experience or expertise to do so properly or effectively. Beyond admissions testing, examinations, and curriculum, this includes ensuring proper facilities and maintenance, adequate emergency procedures, and that appropriate health protocols are in place given the circumstances which may be unique to each such institute and which are protective of all the residents as well as neighboring land uses. It also provides protection to the students and residents from mismanagement or even fraudulent educational operations.

The Village has a compelling interest in, among other things and without limitation, ensuring educational quality, protecting students and families from fraud and mismanagement, maintaining academic standards, protecting public health and safety, and ensuring proper facilities and qualified instructors with proper monitoring and oversight. The Village's accreditation requirement is narrow and tailored to achieve these interests and it applies equally to all bona fide educational institutes, secular or religious, and if religious, it applies equally to all religions and belief systems. This Board finds that the accreditation requirement serves a valuable purpose, and to apply it herein does not in any way, either by its cost, magnitude, or volume operate to exclude religious or education uses, including rabbinical colleges. To the contrary, rabbinical colleges are permitted in the Village provided that they are accredited. The accreditation requirement clearly does not operate to exclude these uses. The accreditation requirement imposes no burden, let alone a substantial burden, on the applicant or its religious exercise. It is also noted that the Village, in accordance with law, permits educational institutions in its residential zoning districts consistent with New York State law.

On balance, in summary, the Board finds that the equal application of the accreditation requirement to the applicant herein as to any and all other religious or secular educational uses seeking approval is proper and warranted. The benefit to the residents of the Village and the neighboring land uses in requiring such simple accreditation outweighs any burden to the applicant herein.

Finally, the applicant also seeks relief from this Board in regard to its proposed accessory use involving adult student housing. Mr. Zummo's determination letter dated April 1, 2024, is confined to the accreditation issue relating to the proposed principal use on the applicant's property. As set forth above, he determined that without a permissible primary use, the proposed accessory use cannot be considered. As set forth above, the Board agrees that the primary use proposed as an unaccredited educational institution is not permitted and declines to grant the use variance requested in that regard. Since Mr.

The Chairman, Jesse Kaufman asked the Village Clerk when the next Zoning Board of Appeals meeting will be. She told him that nothing is on the schedule for February, so there will be no February meeting. The next possible meeting date would be for March 19, 2025 at 7:30 pm.

Kevin Dock made a motion to close the meeting at 7:54 pm. The motion was seconded by Bill Baker. Upon vote, the motion was carried by all present, passes 4-0.

Minutes respectfully submitted by Jenna Antoine, Village Clerk