

VILLAGE OF POMONA
ZONING BOARD OF APPEALS MEETING
July 16, 2025 – 7:30PM

PRESENT:

Alan I. Lamer, Zoning Board of Appeals Chairman

Yehuda Klien, Zoning Board Member

Bill Baker, Zoning Board Member

ALSO PRESENT:

David MacCartney, Village Attorney

Moshe Orange, Village Clerk

ABSENT:

Martin Spence, Village Engineer

Louis Zummo, Village Building Inspector

Kevin Dock, Zoning Board Member

Jessy Kaufman, Zoning Board Member

Alan I. Lamer called the meeting to order at 7:38 pm.

No motion to approve the Meeting Minutes from January 20, 2025. Due to absence of 3 members who were present in the last meeting.

Mark Mosenson – 9 Cheesecote Ln Pomona NY 10970

Tax Roll# 19.17-1-55.1

Attorney Daniel Richmond of Zarin & Steinmetz, spoke on behalf of applicant Rachel Lieberman, who is seeking variances for a swimming pool and pool house at 9 Cheesecote Cove Lane. The request includes relief from the required 25-foot side yard setback (to allow 5 feet) and 30-foot rear yard setback (also to allow 5 feet). The variances are needed due to the lot's unique shape, steep slopes, and rock formations, which limit usable space and make compliance with standard bulk requirements impractical. The proposed location of the pool and pool house is in the backyard, adjacent to an existing fish pond.

Daniel Richmond, attorney for applicant Rachel Lieberman, continued his presentation supporting the request for side and rear yard variances to construct a pool and pool house at 9 Cheesecote Cove Lane. He argued the variances meet the legal area variance balancing test based on the following points:

- 1. No Neighborhood Impact: The proposed structures will not negatively affect the neighborhood's character or adjacent properties. The pool and pool house will be significantly lower in elevation than neighboring homes (approximately 50 feet below), and are screened by natural vegetation and topography. Letters of support from the four adjoining property owners confirm no anticipated disturbance or opposition.**
- 2. No Visual or Environmental Impact: The site is well-separated (about 300 feet) from nearby parkland and hiking trails, with sufficient vegetation to block visibility. There will be no negative environmental or physical impacts.**

3. **No Feasible Alternatives:** Due to the unique shape and steep slope of the lot, placing the pool elsewhere is not feasible.
4. **Variance Not Substantial in Impact:** While the numeric variances may seem substantial (reducing required setbacks from 25 and 30 feet to 5 feet), the actual impact is minimal. The law requires considering the totality of circumstances rather than just numerical differences.
5. **Self-Created Hardship Not Disqualifying:** Even if the hardship is deemed self-created, it does not legally prevent the board from granting the variances.

He also noted:

- **The use of pervious pavement will help maintain development coverage limits.**
- **Lot coverage will remain compliant at 20%.**
- **A GML (General Municipal Law) review letter was submitted.**
- **The applicant's engineer could not attend the meeting.**

Richmond concluded by inviting any questions from the board.

Alan I. Lamer: Not disagreeing with you as a rule, this board has looked at 20% as the number, my understanding that the code is 15% plus 5% ancillary, and that's all subject to a lot of interpretation, so 20% is the magic number, as far as we're concerned,

Bill Baker made a motion to set this down for a public hearing The motion was seconded by Yehuda Klein. Upon vote, the motion was carried by all present, passes 3-0-2.

34 N Ridge Rd., Pomona, NY 10970

Tax Roll# 25.05-2-13

Daniel Richmond, representing Chabad of the Heights, appeared before the board to appeal a Notice of Violation dated May 9, 2025, concerning a temporary tent erected on the property for religious use after the original house of worship was destroyed by fire.

- **Background:** The tent was approved via a special permit by the Village Board to serve as a temporary house of worship while the Chabad seeks to rebuild.
- **Violation:** The notice cited New York State Fire Code, which limits tent usage to 180 days within a 12-month period.
- **Response:** The Chabad has applied for a variance from the NY Department of State to extend tent use beyond the 180-day limit. An email from the Department indicates the variance will be granted this week, which would resolve the basis for the violation.
- **Relief Requested:** Richmond requested that the notice of violation be vacated or stayed, emphasizing that religious uses are protected and should be accommodated when there's no public health or safety risk. He cited legal precedent supporting flexibility for religious institutions in zoning and code compliance.

Board Discussion:

- **The Chair acknowledged that the issue may soon be moot, but recommended the appeal be scheduled for a public hearing in August, allowing the matter to be addressed formally if needed.**
- **Richmond agreed, noting that if the variance is granted before the hearing, the violation could be withdrawn or the appeal dismissed.**

Conclusion: The board will move forward with scheduling the appeal hearing in August, pending the expected state variance decision.

Bill Baker made a motion to set this down for a public hearing the motion was seconded by Yehuda Klein. Upon vote, the motion was carried by all present, passes 3-0-2.

8 Ladentown Rd. Pomona, NY 10970

The applicant was presented by their attorney; Radhika was appealing the building inspector’s determination and seeking a variance as recommended by the inspector. They argue the determination was erroneous, noting that the client—a religious corporation—previously obtained a special permit in 1996 to build a temple. A 2023 application sought to expand the premises by enclosing the temple grounds for religious processions and constructing a separate social hall with a second-floor monastery for priests. An affirmation from the head of the temple’s religious committee was submitted to support the need for on-site priest accommodations. The applicant deferred technical responses to their engineer before continuing their argument.

The applicant’s planner Premier Ramanathan: presented an overview of the proposed expansion to the existing 15,000 sq. ft. Hindu temple, which includes a 30,000 sq. ft. addition for enclosed processional space and a 12,500 sq. ft. building containing a social gathering hall (lower floor) and a monastery (upper floor) for up to 16 non-transient priests, possibly with families.

The main point of appeal is the building inspector’s classification of the monastery as a “dormitory” or “multi-family housing.” The applicant argues it does not meet the village code definition of a dormitory because:

- It is not revenue-generating or transient.**
- It is purpose-built for religious life, with communal living spaces.**
- Hindu priests may be married and have children, which is part of monastic tradition.**
- The design’s resemblance to a dormitory does not dictate its use.**

Additional clarifications include:

- **No commercial kitchen—only food warming for temple patrons.**
- **One communal living room, not individual living rooms.**
- **Social hall use for weddings/receptions tied to temple events, with no outside rentals or revenue generation.**

The applicant agrees to provide required engineering details (landscaping, lighting, etc.) once the overall layout is approved and requests the board to allow the monastery as proposed to better serve the temple’s operational needs.

David MacCartney Village attorney:

I have just one question. You mentioned something regarding the commercial use of the gathering hall. From my review, I did not see the application or supporting documents requesting any relief on that issue at least not at this point. My understanding was that the appeal and interpretation you are seeking is confined to the second-floor use related to the monastery, which you are referring to as a monastery. Is that correct.

Project engineer:

Yes, that is correct. However, since the Building Inspector has now specifically noted a restriction concerning the social gathering hall, we wanted to clarify our position and make the record clear as to how we interpret that matter.

Applicant attorney:

The applicant is not seeking a commercial use. It's only for the congregation members.

Area variances have been submitted to the Planning Board; SEQRA lead agency (Village Board or Planning Board) has not yet been determined.

The applicant’s attorney argued that Pomona’s building code does not define “monastery,” but the New York State Building Code does, describing it as communal living for fewer than 60 people. He requested the board adopt the state definition, noting the board’s

obligation to accommodate religious use. He also submitted an affirmation explaining the religious necessity for priests to live on-site.

David MacCartney Village attorney: confirmed the applicant was seeking for an interpretation appeal.

The applicant's attorney stated that Pomona's code does not define "monastery," but it does allow incidental uses subordinate to a house of worship. Under RLUIPA, the board must accommodate religious use. He argued the board should adopt the New York State Building Code definition, which permits up to 16 residents, though the applicant is willing to accept a lower number if the board imposes conditions.

The attorney explained that until the full SEQRA process is complete, with multiple boards involved (Village Board, Planning Board, and ZBA), the question arises of how to proceed. Typically, the Planning Board, not the ZBA, assumes lead agency status and conducts the environmental review for the entire project, rather than just specific portions like interpretations or variances.

The applicant agreed to proceed with the review process and set aside the variance issue for now, to determine later whether a use variance is needed or if the board will grant approval for the monastery use.

Alan I. Lamer, Zoning Board of Appeals Chairman

asked whether, as long as it is on the record that the application is being withdrawn, the applicant would not need to resubmit a new application. The member also noted that since the interpretation is a Type II action, it would not be distributed to other agencies, and asked if the applicant agreed.

David MacCartney Village attorney: explained that the cleaner approach would be for the applicant to withdraw the application without prejudice, with the understanding that it could be resubmitted later without being considered untimely. However, he noted that it might also be possible to proceed by holding the area variance portion of the application in abeyance, provided the applicant waives any claim regarding timeliness of the public hearing. In that case, the area variances could remain on hold without a hearing, at the applicant's request and consent.

The applicant's attorney:

stated that they consent to waiving the hearing requirements and request that the area variance application be held in abeyance. In addition, they noted that further coordination is needed to determine the next steps, since both the Planning Board and the Village Board are involved in the process.

A motion by Mr. Klein to set this matter down for a public hearing to the next scheduled meeting on August 20th. Second by Mr. Baker. The motion carries 3-0-2.

Bill Baker made a motion to adjourn the meeting at 8:32 pm. The motion was seconded by Yehuda Klien. Upon vote, the motion was carried by all present, passes 3-0-2.

Minutes respectfully submitted by Moshe Orange, Village Clerk