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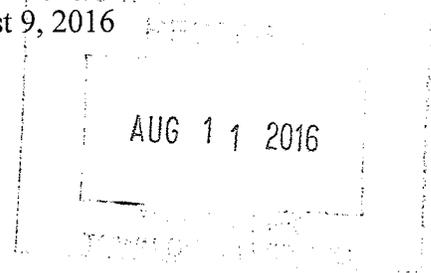
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August 9, 2016

Ms. Donna Akerley, Town Clerk
Town of Fallsburg Town Clerk's Office
PO Box 2019
19 Railroad Plaza
South Fallsburg, New York 12779



RE: Congregation Kahal Minchas Chinuch, Inc.

Dear Donna:

Enclosed is the original and six copies of a Petition for Relief from the Town of Fallsburg Moratorium law.

Please let me know when the public hearing will be scheduled.

Very Truly Yours,

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a long, sweeping horizontal line that extends to the right.

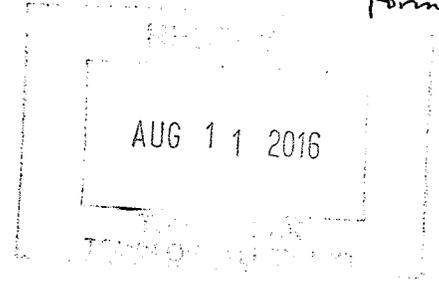
JAY L. ZEIGER

JLZ/dm

Enc.

cc: Mr. Chaim Babad (via email with enclosures)
Paula Kay, Esq. (via email with enclosures)
Ms. Mollie Messinger (via email with enclosures)

Served over the Court by
Danielle at 2:13 of
Kalter, Kaplan, Zeiger +
Forman



State of New York - County of Sullivan
Town of Fallsburg - Town Board

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In the matter of the Application of /
CONGREGATION KAHAL /
MINCHAS CHINUCH, INC. /
/
for a Hardship Variance from the Town's/
Residential Moratorium Local Law /
=====

**Verified Petition for Relief from
Moratorium**

The Petitioner, CONGREGATION KAHAL MINCHAS CHINUCH, INC., by its attorneys, KALTER, KAPLAN, ZEIGER & FORMAN, hereby submits this Petition for a hardship variance from the application of the Town's Residential Moratorium Local Law (the "Moratorium Law"), and in furtherance thereof, respectfully alleges as follows:

1. The Petitioner is the owner of four parcels of land located in the Town of Fallsburg on the westerly side of Fred Road (a/k/a Park House Road). The Property consists of tax parcels section 60, Block 1, Lots 51, 52, 53 and 54 (collectively the "Property"). The Property contains approximately 23 acres of land and is located in the REC-1 Zoning District.

2. The Property has been owned and operated by the Petitioner for many years. When acquired by the Petitioner, the Property contained an existing bungalow colony which was in a significant state of disrepair. During the several years that the Petitioner owned the Property, the Petitioner rehabilitated several of the buildings and also tore down several other buildings and replaced them with new. The Petitioner substantially improved the Property.

The Petitioner currently uses the Property as a Religious Retreat. More specifically, the Property is used to provide religious education to the students that reside at the Property. The students that reside are rabbinical students, approximately the ages of 25 - 35, and are all married with children. During most of the day, the students are involved in religious education classes and a continuation of the religious studies that they experience for the balance of the year.

THE PROJECT

3. The Property as it currently exists is an existing bungalow colony containing multiple residential dwelling buildings, an onsite mikva, shul, and pool. The Property also contains an existing residence and accessory buildings. The Project involves the continued rehabilitation of the Property, an expansion of the existing facility and the consolidation of the four existing lots into one tax parcel. More specifically, the Project involves the removal of six existing buildings containing six residential dwelling units, and replacing the foregoing with 11 new buildings, each containing

two single family residential dwellings, for a total of 22 new residential dwellings. Thus, after completion the Project will increase the number of residential dwellings by 16 (6 to be demolished and 22 to be added).

4. The Property is located outside of the Town Water and Sewer districts. Currently, water is provided to the Property through existing wells. It is anticipated that the existing wells will have the capacity to provide water for all of the new buildings to be constructed. Sewage is provided by an existing central sewage system that currently services all of the existing buildings. It is contemplated that a second sewage disposal system will be constructed to service the new buildings. It is important to note that sewage will not be provided by an on-site package plant, and the associated potential maintenance costs; sewage will be provided by leach fields and filters which requires far less maintenance.

PROJECT HISTORY

5. The Project has been pending since 2014. The original engineer for the Project was Adler Engineering. The current engineer is Mercurio-Norton-Tarolli-Marshall, PC.

6. In 2014, the applicant presented this Project to the Town of Fallsburg Planning Board as an expansion of an existing bungalow colony. The Planning Board rejected the Project inasmuch as the expansion of an existing bungalow colony is not permitted under the current Town Zoning Laws. In response, the Petitioner submitted a variance application to the Town Zoning Board of Appeals to construct duplex buildings on the Property and the variance was granted. However, the Town Code Enforcement Officer determined that the decision of the Zoning Board of Appeals was not clear as to what was approved and that the variance that was granted was a nullity.

7. The applicant thereafter submitted a new petition to the Town Zoning Board of Appeals seeking to construct duplex houses within the REC-1 Zoning District. In 2014, a variance from the Zoning Board of Appeals was granted which would allow for the removal of several of the existing buildings and the construction of the duplex houses which are now the subject of the pending site plan application before the Town of Fallsburg Planning Board.

8. Notwithstanding that a variance was granted by the Zoning Board of Appeals, the Project did not proceed as permitted by the variance. The then Project engineer, Adler Engineering, began work on the Project, but due to employment problems, was unable to complete the engineering required to continue to pursue the Project. The Project engineer at that time was Adler Engineering. Among other issues, Adler Engineering was unable to complete the detailed engineering, including the design of the sewage disposal system. As such, the Petitioner allowed the variance to lapse.

9. The Project now pending before the Town Planning Board consists of a revised version of the Project for which the Town Zoning Board of Appeals had previously granted a variance, and a change in use of the Property from a bungalow colony to a Religious Retreat.

10. The revised Project has been pending before the Town of Fallsburg Planning Board for several months. The Planning Board conducted the required public hearing for the Project, there was no public opposition submitted with respect to the Project. Public opposition was not anticipated since the Project is a relatively small project and does not represent a significant expansion of the current use of the Property inasmuch as 6 residential dwellings are being removed and being replaced with 22 residential dwelling units for a total increase of 16 residential dwelling units.

11. The Project engineer for the Project is now Mercurio-Norton-Tarolli-Marshall. Said engineer has submitted to the Planning Board a detailed site plan for the Project. The site plan has also been submitted to the Town Engineer and the Town Planner. The Project Engineer has also submitted all of the associated planning and zoning reports that are required for a project of this nature. The Town Engineer has submitted comments to the Project engineer, and the comments of the Town Engineer have been satisfactorily addressed. The Petitioner has no record of receiving any comments with respect to the Project from the Town Planning Consultant, notwithstanding that 15 months ago the Petitioner paid \$3,000.00 as an escrow deposit for his fees.

12. The site plan was discussed extensively at the April, 2016 Planning Board meeting, and several comments were provided by members of the Town Planning Board. Although comments were given, most of the comments were of site improvement by nature, rather than major revisions to the site plan, such as the relocation of the trash compactor, adding additional notes to the map, and better delineating the parking areas. Unfortunately, the Town Planning Consultant was not at that meeting and provided no input with respect to the site plan. Nevertheless, based on the limited Planning Board comments, it was anticipated at the April 2016 meeting, that provided the comments were properly implemented on the revised site plan, that the Project would be in a position to receive Planning Board approval at the next Planning Board meeting in which the Project was discussed.

13. A revised site plan was submitted to the Planning Board and the Town Planning Consultant by the Project Engineer prior to the June, 2016 Planning Board meeting, and the Project was included on the agenda of the meeting for that evening. The revised site plan was discussed with the Planning Board and the Planning Board was shown that the changes that the Planning Board had requested were implemented. There were some additional suggestions made by the Planning Board with respect to the site plan, which suggestions were of a relatively minor nature, and which suggestions would typically be included as a modification to the approved site plan which would be included in the conditional site plan approval resolution. There were no material revisions to the site plan that the Planning Board was seeking.

14. Notwithstanding that the Project was in a condition where approval for the Project would be appropriate, the Planning Board determined to defer approval for the Project to the Planning Board meeting scheduled for the following month (July 2016) so as to allow the Town Planning Board Consultant, who was not at the June, 2016 meeting, and who provided no input confirming that the previous comments of the Town Planning Board had been implemented, so he

could review the revised site plan and prepare a formal resolution of approval, and to summarize the various conditions for approval that had been discussed during the April, 2016 Planning Board meeting and the June 2016 Planning Board meeting. Accordingly, the Planning Board did not act on the site plan at its June, 2016 meeting, and elected to defer approval until the following Planning Board meeting.

15. In connection with this Project, the Project Engineer submitted all required engineering reports required in connection with this Project and changes to the site plan based upon the comments of April, 2016. Copies of all of the foregoing documents can be obtained in the Town Planning Board files. In addition, a copy of any or all of these documents will be provided to the Town Board upon request to the Petitioner.

HARDSHIP

16. The religious programs that the Petitioner provides at the Property is a continuation of the programs provided at the Petitioner's facility in Brooklyn, New York. The residents at the Property are the same persons that attend the religious education programs of the Petitioner at its facility in Brooklyn, New York. The Petitioner's facility in Brooklyn, New York has been expanding and there is currently an expanding need for the facility in the Town of Fallsburg to service additional students. Thus, there is an urgent need for an expansion of its facility in Fallsburg, New York, as contemplated by this Project. Moreover, the students that attend the Petitioner's religious programs in most instances do not own automobiles. As such, it is necessary that they reside at or within walking distance of the Petitioner's facility.

17. As stated previously in this Petition, this Project has been pending since 2014. To date, the Petitioner has expended approximately \$70,000.00 towards Project approval which includes two different engineers, multiple appearance before the Town Zoning Board, and payments to Town engineers and planning consultants.

RELIEF REQUESTED

18. For the reasons heretofore set forth, the Petitioner is requesting relief from the Moratorium Law and requesting authority to complete the development of the Project.

19. As set forth in this Petition, the approval of this Project is at or near the final stages. All of the reports and site plan requests from the Town of Fallsburg Planning Board have been submitted to the satisfaction of the Town Planning Board and its consultants. It is anticipated that at the next Planning Board meeting, the Project will be granted a formal negative declaration and conditional approval by the Planning Board.

20. The Petitioner has also demonstrated a substantial financial hardship mandating that this Project be allowed to proceed, notwithstanding the Moratorium Law. To date in excess of \$70,000.00 has been paid for Project approval, including engineers and town consultants.

21. For all of the reasons set forth herein, it is respectfully submitted that the Petitioner has demonstrated that a significant hardship would be incurred, including financial and otherwise, in the event that the Petitioner would not be allowed to proceed towards the completion of this Project, and that, in such event, Petitioner would suffer irreparable injury of no less than \$70,000.00.

22. Moreover, the relief requested herein is not inconsistent with the reasons for the Moratorium Law. The Project is not a new project; it is an expansion of an existing facility and an expansion of only 16 residential dwelling units. Moreover, the Project is not located in either the Town Water or Town Sewer Districts; thus, this Project will have no impact on the sewer capacity, which was the stated reason for the Moratorium Law.

23. The Petitioner has demonstrated its good faith efforts to improve the Property - several deteriorated buildings were demolished or rehabilitated, and replaced with new buildings. Indeed, at the Public Hearings no neighbors objected to the Project or the Petitioner's operations; the only comment was that cars stopped on the side of the road to pick up and drop off passengers - this problem will be resolved by the revised site plan, as the additional buildings will reduce the amount of students being picked up and dropped off, and the revised site plan includes an area for picking up and dropping off persons.

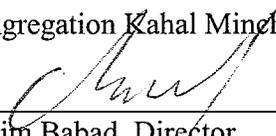
24. The Project involves a Religious Retreat facility and housing for students who attend the religious programs of the Petitioner. The Project is located in the rural section of the Town, away from the high traffic areas. The Religious Retreat currently operates at the Property, and the expansion is of only 11 additional dwelling units. Moreover, the Property is located near the border with the Town of Thompson; housing similar to what the Petitioner now proposes is allowed at the adjacent properties within the Town of Thompson.

END OF PAGE

WHEREFORE, it is respectfully requested that the Town of Fallsburg grant the Petitioner relief from the stay of development provided for by the Town of Fallsburg Residential Zoning Moratorium Law and that this Project be allowed to proceed through the approval process of the Town of Fallsburg Planning Board and any other Town Boards which may require approval for this Project, including the Architectural Review Board and the Building Department.

Dated: Woodbourne, New York
August 1, 2016

Congregation Kahal Minchas Chinuch, Inc.

By: 

Chaim Babad, Director

