

## MEMORANDUM

The Board of Trustees of the Village of Wesley Hills has come to the conclusion that the Village's Zoning Law provisions dealing with gatherings for religious or other purposes no longer is consistent with the needs of all of the Village's residents. As a result, an informal committee was formed to advise the Board of Trustees concerning a revised policy that would be incorporated into an amendment to the Village's Zoning Law. The Board of Trustees hopes that the revised policy will be better adapted to current demands for more lawfully-created places of worship in the Village. The intent of the revised policy is to balance the need for the establishment of such gatherings as lawfully permitted uses with the need to protect the safety and residential character of the Village and its residents. A further intent is to create a procedure for obtaining permission to establish gatherings that is reasonably easy and expeditious while also being consistent with the latter goal of including necessary protections. This Memorandum will summarize the proposal, to provide a platform for further discussion.

This proposal does not exist in a vacuum. The Village's existing Zoning Law regulates religious and other gatherings based upon a policy that was adopted in 1988. It does so by creating three tiers of uses, which were intended to represent different intensities of use. The first tier (called a "minor religious use") allows a regular gathering of not more than 15 people in any building also being used as a residence as a matter of right, with no need to make any applications to the Village; however, there is a limit of 6 cars that can be parked on the lot associated with the use. The second tier (called a "religious or neighborhood gathering") applies to a regular gathering of between 16 and 30 people in a building also being used as a residence. The second tier use also is allowable on any residential lot in the Village, but it requires a special permit from the Planning Board; as with the minor religious use, there is a limit of 6 cars that can be parked on the lot associated with the use. The third tier (called a "religious use") is for any religious use that does not fall into either of the first two categories (either because the gathering is regularly for more than 30 people or because it takes place in a "stand-alone" building that is not also being used as a residence). The third tier use requires a special permit from the Planning Board and has more stringent requirements: it must be located on one of the "Major Roads" that are listed in the Zoning Law, it must be on a double-size lot, its minimum yard requirements are double the size of those applicable to single-family houses, and it has greater parking requirements which must be satisfied on the lot associated with the use. Although the existing regulations worked well and without controversy for many years (and in fact the Village's Zoning Law regulating religious uses was favorably reviewed in a 1991 law review article written by the legal director of the American Jewish Congress), it is apparent to the Board of Trustees that the regulations are now outdated, because they fail to account for the much greater demand for larger congregations that are not located on "Major Roads".

The proposed new Zoning regulations would replace the presently existing requirements. The new regulations will apply equally to all gatherings in the Village, regardless of whether they currently exist or will be created in the future. The major features of the new regulations will include the following:

(1) All gatherings on a regular basis, whether for religious or other social purposes, will be subject to the identical regulations.

(2) Such gatherings, regardless of size, shall be allowed anywhere in the Village, except on specific streets or portions thereof that will be listed in the Zoning Law. The exclusion of certain streets (or specific portions of streets) will be based on considerations of safety (both firefighting access and traffic safety considerations will be emphasized), and thus the most likely excluded streets will be cul-de-sacs, dead-ends, narrow streets, and very curved or steep streets with limited visibility or line of sight.

(3) All buildings containing gatherings will be required to comply with all requirements of the Building Code of New York State (not the Residential Code of N.Y.S.)

(4) All buildings containing gatherings will be required to comply with the same Village dimensional requirements that apply to single-family houses. Those dimensional standards include front yard, side yard, and rear yard setbacks, maximum building coverage, building height, and impervious surface ratio.

(5) The gatherings will be permitted equally in a building also used as a residence or in a “stand-alone” building without a residential component.

(6) There will be no numerical limit stated in the Zoning Law on the size of the gathering or the maximum number of occupants. The practical size limit will be determined by applying the requirements of the Building Code of New York State to the dimensions of the building in which the gathering is located, and the maximum dimensions of that building in turn will be a function of the dimensions of the lot on which it is located and the applicable Village zoning dimensional standards.

(7) The limit of 6 cars parked per lot will be eliminated.

(8) “Stand-alone” gatherings will have to provide a minimum of 20 parking spaces. Mixed uses (which include both the gathering and a residential use) will have to provide a minimum of 15 parking spaces.

(9) If the gathering is on a “Major Road”, all required parking will have to be provided on the site. If the gathering is not on a “Major Road”, the Planning Board will have the discretion to allow on-street parking or parking on adjacent properties to count towards the parking requirement if it believes that it is safe and consistent with neighborhood character to do so.

(10) The list of “Major Roads” contained in the Zoning Law will be expanded to include the entire length of East Willow Tree Road and the entire length of McNamara Road.

(11) A special permit will not be necessary for a gathering within a building that is also being used as a residence if the gathering occupies no more than 500 square feet and if the gathering does not exceed the percentage of use that would cause the house to be out of compliance with the Residential Code of New York State.

(12) All other gatherings will require a special permit from the Planning Board. In such cases the Planning Board will consider the amount and location of parking, privacy screening, site lighting, and the conditions of use for the proposed gathering.

(13) The Planning Board will have the discretion, as a condition of the special permit, to require that the owner/applicant shall appear before the Planning Board again one year after the grant of the special permit, at which time the Planning Board will review the adequacy of the parking requirements included in the original special permit. At that subsequent meeting, the Planning Board will have the discretion to amend the special permit to include revised parking requirements as a condition for continued operation, if the Board deems that the revised requirements are necessary for reasons related to public safety or neighborhood character.

(14) The Village’s current restriction on over-night parking (which actually is separate from the Zoning Law) will be retained.

With the new requirements, it is likely that a proposed gathering that requires Planning Board approval but does not require variances and does not raise neighborhood opposition might be approved within 3 Planning Board meetings.

The advisory committee is hopeful that a revised Zoning Law that addresses the needs and concerns of the entire Village will be adopted sometime during the autumn of 2008.