

**Village of Wesley Hills
Planning Board – January 6, 2010**

The meeting was called to order by Marshall Katz, Chairman, at 7:40 p.m.

Present: Marshall Katz-Chairman, Don Isenberg, Uri Kirschner, Rachel Taub-Second Alternate

Also Present: Frank Brown-Deputy Village Attorney, Ben Selig-Village Attorney, Liz Mello-Village Engineer, Jeff Osterman-Village Planner, Janice Golda-Deputy Village Clerk

Absent: Vera Brown-Deputy Chairman, Marvin Finker, Ester Ben-Dov-Shucht-First Alternate

REQUEST FOR FILING EXTENSION OF THE MOSKOWITZ TWO-LOT SUBDIVISION. Affecting property located on the north side of East Willow Tree Road, 330' west of Deerwood Road. Known as Tax Parcel ID#41.08-1-44 on the Ramapo Tax Map.

Sol Moskowitz explained that due to an oversight and financial issues concerning one of the applicants, he missed the deadline for filing of his March 25, 2009 approved subdivision. Marshall Katz explained to the public that there is a 6-month deadline for filing. Frank Brown recommended following the same process that occurred with the Belmar subdivision which is resubmitting of the final application/plat plan which includes scheduling a public hearing. Marshall Katz explained to Sol Moskowitz that a large crowd is expected for the upcoming public hearing on January 27, 2010 Planning Board meeting and if he (Mr. Moskowitz) chooses he can resubmit for a later meeting. Mr. Moskowitz requested permission to be on the January 27, 2010 agenda.

Marshall Katz motioned to adopt the following resolution. Uri Kirschner seconded.

Resolution #10-1

WHEREAS, on March 25, 2009, by Resolution #09-8, conditional subdivision approval was granted to the subdivision known as Moskowitz Subdivision, and

WHEREAS, such conditional approval has expired without the signing of the final plat for such subdivision due to financial issues concerning one of the applicants, which issues were unanticipated by the applicants at the time of final plat approval, and

WHEREAS, the applicants have advised this Board that they intend to re-submit said plat for approval as soon as possible and that the re-submitted plat will be identical in all respects to the previously approved plat except for the incorporation of any changes necessary to satisfy the requirements of this Board as set forth in Resolution #09-8,

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby grants permission to the applicant to proceed directly to a public hearing on final approval of the re-submitted plat, with approval of the sketch plat and the preliminary plat deemed to have been granted, provided that:

1. A complete re-submitted application for approval of such final plat shall be filed with the Village Clerk no later than March 24, 2010.
2. The re-submitted final plat shall be identical in all material respects with the previously approved final plat, except for any alterations that are necessitated in order to comply with the conditions set forth in Resolution #09-8.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes, Rachel Taub-Yes.

Motion Approved

PUBLIC HEARING CONTINUATION ON THE APPLICATION FOR CONGREGATION BAIS YAKOV YOSEF OSTROW FOR A SPECIAL PERMIT FOR A NEIGHBORHOOD GATHERING AND SITE PLAN APPROVAL FOR A SYNAGOGUE ADDITION TO A SINGLE FAMILY RESIDENCE. Affecting property located on the southwest corner of the intersection of Skylark Drive and Ridgeway Terrace. Known as Tax Parcel ID#41.16-1-79.

Todd Rosenblum represented the applicant and presented to the public an overview of the changes to the plan. Mr. Rosenblum explained that the revised plans include: a parking lot with 8 spots facing toward the house, a pine tree that was saved, a turnaround was added, proposed landscaping was included, replacement of the existing fence with a 6 ft. vinyl one along the property line and maintaining existing pine trees and shrubbery, and proposed light fixtures. Liz Mello explained that she spoke with the Town of Ramapo and they had no issue with the requested “no parking signs” but they will need a resolution from the Village Board indicating they want the signs installed. Ms. Mello stated that the Town of Ramapo does not recommend the requested “stop sign” because of the elevation of the grade and the difficulty stopping in icy/snowy conditions which would increase rear-end accidents. Ms. Mello stated that the “hill” sign requested is presently there but obscured by trees which will be trimmed back.

Marshall Katz re-opened the public hearing.

Venecia Land, 30 Skylark Drive, wanted to know who confirms that the plans, as presently modified, are followed as approved. Liz Mello responded that it is the responsibility of the Village engineer and the Village Building Inspector to ensure compliance to all approved plan requirements and a CO will not be issued until all requirements and the final as-built are satisfied.

James Samuel, 32 Skylark Drive, commented that he thinks the stop sign should be installed because people roll down the hill and don’t stop. Liz Mello replied that the Town of Ramapo

does not recommend it at that intersection and the Board then discussed alternatives, for example, a sign on Skylark. Frank Brown suggested to Mr. Samuel to pursue his sign concerns with the Village Board. Mr. Samuel asked where will the designated no parking be on the street. Marshall Katz responded on Ridgeway from the driveway on the lot to the intersection and from the intersection back to the other driveway on the parking lot. Mr. Samuel asked whether there was a NYS law restricting parking within a certain distance from the corner and Marshall Katz responded he was not aware.

Frank Brown recommended securing authorization from the Village Board of Trustees regarding street parking restrictions. Mr. Brown also recommended upon approval, that the resolution include no on-street parking allowed in connection with the operation of this use as a condition of this special permit; therefore, the congregants cannot park on the street which is separate from putting up a no parking sign which affects everybody for all purposes at all times which would require Village Board approval. Mr. Brown stated the Planning Board could make the request for no on-street parking to the Village Board and Marshall Katz asked Ben Selig, attorney for the Village Board, that he inform the Village Board that the Planning Board recommends no parking signs on the street from driveway to driveway.

Mr. Samuel asked with the capacity of 150, where will everyone park? Mr. Rosenblum responded that as previously discussed, on the Sabbath and High Holydays congregants don't drive and the parking provided is primarily for congregants who live further away or for services during the week and that special events with more than 20 cars are rare.

Marshall Katz discussed with the Board about having an annual letter of availability submitted to the Village by those homeowners who allow usage of their driveway for parking and also the consequences if not received from the applicant. Jeff Osterman reviewed the lighting, landscaping and sidewalks with some recommendations. Liz Mello suggested planting more vegetation along the property line in the rear for more screening, e.g., bamboo. Isaac Steinfeld, 12 Kentor Lane, said he thought there would be redundancy with both bamboo and also a fence and Todd Rosenblum agreed. The Board preferred the fence only.

Liz Mello reviewed her comments of the site plan dated 12/30/09 which include spot grades, location of stabilized construction entrance, sidewalk detail, remove underdrain, fire zone sign correction, handicap parking space sidewalk. Mr. Samuel asked about additional street lighting and Marshall Katz responded street lighting is under the purview of the Village Board.

Frank Brown said that to be consistent with the two recently approved synagogues and the zoning law, the Planning Board cannot determine that fewer than 15 spaces are necessary, but the Planning Board can determine if more than 15 spaces are necessary with no upper limit per discretion of the Board. Similar to previous applications, parking options should be included to address future parking needs as part of the resolution. The Board, the Village Attorney, and the applicant proceeded to discuss parking options and also the increased impervious surface which will require an additional special permit. Uri Kirschner questioned why it is necessary to re-notice just for the impervious surface and Frank Brown responded that a separate special permit is required.

Todd Rosenblum briefed the Board on the roof shingles, stucco, cultured stone and vinyl siding and the colors are primarily in the neutral/beige family. The public was asked if anyone had any comments on the architectural details and no one responded.

Marshall Katz motioned to close the public hearing on the special use permit portion of this application and to adjourn the public hearing on the site plan portion of this application until February 24, 2010. Uri Kirschner seconded.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes, Rachel Taub-Yes

The public hearing on the special permit was closed.

Marshall Katz motioned to adopt the following resolution. Don Isenberg seconded.

Resolution #10-2

WHEREAS, Congregation Bais Yakov Yosef Ostrow has applied to the Planning Board for a special permit for a neighborhood gathering on premises located on the westerly side of Ridgeway Terrace and the southerly side of Skylark Drive known as 5 Ridgeway Terrace and designated on the Town of Ramapo Tax Map as Section 41.16, Block 1, Lot 79; and

WHEREAS, a duly advertised public hearing was held on said application at the Village Hall, 432 Route 306, Wesley Hills, New York, on December 2, 2009, and was continued on January 6, 2010, at which times all interested parties present were given an opportunity to be heard; and

WHEREAS, said application was referred to the Rockland County Department of Planning for review pursuant to General Municipal Law sections 239-1 and 239-m, and by letter report dated October 26, 2009, the Rockland County Department of Planning notified this Planning Board that it had approved the application subject to conditions set forth therein, and

WHEREAS, the Planning Board has considered the Environmental Assessment Form and supporting documentation submitted by the applicant;

NOW, THEREFORE, BE IT RESOLVED, based upon such consideration and a site inspection by Board members, that it is hereby determined that the proposed project will not have a significant impact on the environment as defined by the State Environmental Quality Review Act (SEQRA); and

BE IT FURTHER RESOLVED, that said application for a special permit for a neighborhood gathering is hereby granted, subject to the following conditions:

1. There shall be compliance with all conditions set forth in the letter report of the Rockland County Department of Planning dated October 26, 2009, a copy of which letter report is attached to this Resolution and made a part hereof.

2. The neighborhood gathering shall be operated in conformance with the representations set forth in the letters submitted to the Planning Board by Todd Rosenblum, AIA dated August 10, 2009 and November 2, 2009.

3. Pursuant to section 6.9.8a.6 of the Zoning Law of the Village of Wesley Hills, the Planning Board has determined that the provision of 20 parking spaces, as shown on the applicant's site plan, will be sufficient for the neighborhood gathering to be able to operate in a manner that is consistent with public safety and neighborhood character. That determination is based on the applicant's representations concerning its presently intended operation of the neighborhood gathering. Therefore, pursuant to sections 6.9.8a.6 and 6.9.8a.7 of the Zoning Law:

a. The Planning Board allows 4 parking spaces on Lot 41.16-2-10 and 4 parking spaces on Lot 41.16-1-78 to count towards satisfaction of the parking requirement, provided that at all times the Village shall have in its files written permission for such parking executed by all then current owners of the said respective lots. Each year during the month of January, the then operator of the neighborhood gathering shall file such written permission with the Village. If such filing is not made, the Village shall notify the operator; and in the event of failure to file such written permission within 30 days of such notification, the permission for such off-site parking shall be deemed to have been revoked. If at any time the ownership of either of the said lots shall change for any reason whatsoever, the then operator of the neighborhood gathering, within 30 days of such change in ownership, shall submit to the Village a new document in writing giving permission for such parking, executed by all of the then current owners of that lot; and, in the event of a failure to provide such new permission document, the permission for such parking to continue on that lot shall be deemed to have been revoked. If at any time any of the owners of either of the said lots shall revoke such permission for any reason whatsoever, or shall be deemed (pursuant to the provisions of either of the two previous sentences) to have revoked such permission, the parking spaces on that lot will no longer be counted towards satisfaction of the parking requirement, and the then operator of the neighborhood gathering on the subject premises, within 30 days of such revocation or deemed revocation, shall apply to the Planning Board for a modification of this special permit, which application must show the provision of all of the parking spaces no longer counted in a replacement location deemed adequate and sufficient by the Planning Board.

b. For reasons of safety due to the limited sight distance, no on-street parking shall be allowed in connection with the operation of the neighborhood gathering on the southerly side of Skylark Drive extending from the driveway serving the subject premises to the intersection with Ridgeway Terrace and on the westerly side of Ridgeway Terrace extending from the driveway serving the subject premises to the intersection with Skylark Drive.

c. In the event that permission to use any other lot for off-site parking is revoked or deemed to be revoked in accordance with the provisions of paragraph 3a hereinabove, and if the then operator of the neighborhood gathering on the subject premises

shall fail to apply to the Planning Board for a modification of this special permit to show the provision of all of the parking spaces no longer counted in a suitable replacement location in accordance with the requirements of paragraph 3a hereinabove, then the special permit shall be deemed to be revoked.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes, Rachel Taub-Yes

Motion Approved

At this point due to prior recusal, Frank Brown left the meeting.

**SPECIAL PERMIT AND SITE PLAN APPLICATION AND PUBLIC HEARING
CONTINUATION OF ROCKLAND TREE EXPERTS CO. INC., D/B/A IRA
WICKES FOR AN EXISTING ARBORIST SERVICE.** Affecting property located on the south side of McNamara Road, -0- feet west from the intersection of Union Road. Known as Tax Parcel ID# 42.13-1-22 on the Ramapo Tax Map.

Marshall Katz stated that Mr. Marcus requested Village consultant Michael Bontje's qualifications and Mr. Marcus responded he did receive the resume. Mr. Katz read into the record Mr. Bontje's December 30, 2009 Air Quality Analysis Update – USEPA's MOVES2010 report letter recommending whether the Board should continue to use standards as they exist today. Ira Emanuel, Esq., attorney for the applicant was asked if he had anything to add at this point and he responded he had nothing to add at this time.

Neil Marcus, 32 McNamara Road, challenged the model as the right tool for this application and said that Mr. Bontje dismissed all of their presented documentation about impacting the environment as non-consequential and irrelevant. Mr. Marcus questioned Mr. Bontje's background and qualifications when it comes to safety and health issues and based on his resume and documentation, he believes Mr. Bontje has no qualifications at all to speak to or advise this Board on health issues. Mr. Marcus stated that all of the documentation Mr. Bontje disputes were submitted by doctorate level scientists. Mr. Marcus stated that the EPA claims that MOBILE 6.2 is not applicable for quantitative analysis nor an efficient tool for accurate measurement. Mr. Marcus said that Mr. Bontje, as an advisor to this Board, is identifying himself as an expert on air quality when he only has a bachelor's degree. Mr. Marcus said that this whole review is based on Mr. Bontje's interpretation of the zoning law, standards compliance, what should and should not be included in the SEQR review.

Mr. Marcus said that the SEQR review has to look at impacts and he said Mr. Bontje's interpretation is centered on the standards of existing law. Mr. Marcus said this whole review is focused around following Mr. Bontje's lead. Mr. Marcus stated that he feels that substantial environmental impacts have been identified and they should be mitigated, e.g., effect on wetlands, potential impact if chemicals were released and the effect on people if there is a fire or pollution seeps into the water. Mr. Marcus stated that these are the kind of things to take a hard look at as they directly impact lives. Therefore, the Wickes operation is not appropriate in this location and he requests a fair evaluation.

Ira Emanuel responded that it is interesting to hear Mr. Marcus say that all he is looking for is a fair evaluation. Mr. Emanuel said in his opinion it is the farthest thing from Mr. Marcus' mind and that the interest is to shut the operation down. Mr. Emanuel referenced Mr. Marcus' comments about pollution in the stream which have been evaluated by the DEC in the submitted documentation. Mr. Emanuel stated that Mr. Marcus has submitted generic information but he has not produced anything with respect to how this specific site operates. Mr. Emanuel stated that Mr. Bontje provided analyses, site specific reviews and conclusions as were also provided by his expert Mr. Potenta of Potenta Environmental Consultants LLC. All site specific reports are in the record while there is nothing to the contrary from the opposition. Mr. Emanuel asked the Board in fairness it is time to shut down the public hearing. Mr. Marcus replied that his documentation was presented to the Board and it is on the record and that Mr. Emanuel is basically disputing this. Mr. Marcus stated that the Rockland County Health Dept. has cited the Wickes for pollution of the water for a petroleum type product. Mr. Emanuel responded this is not true and Mr. Marcus said he wants an apology.

Ben Selig, Esq., Village attorney, stated that as far as he knows, other than what has been read into the record at this meeting, there was no new or further evidence be it in writing or by testimony this evening. With that said, this application is deemed fully submitted and it may be appropriate to proceed with closing the public hearing. Mr. Marcus interjected that the applicant has not produced any expert witnesses but rather only consultants to perform various tests. Mr. Marcus referenced Mr. Bonje's membership in the Arborist Association in NYS and he also stated Mr. Bontje has no qualifications to be considered an air quality expert.

Mr. Selig stated that there is a myriad of material to be reviewed and considered and inputted into the final discussions with respect to whatever determination is made by the full complement of the Board.

Mr. Selig asked the applicant that due to the significant volume of items, in addition to this application, on the upcoming February 24 Planning Board agenda that in the event of a delay considering the required 62-day deadline, would the applicant agree to the March 24, 2010 meeting for continuation. Ira Emanuel responded that the 62-day statute has a no default provision and that he wants the Board to have full opportunity to review, examine and deliberate and that should it go over to the March 24 meeting he has no objection.

Mr. Marcus asked about other issues that are not in compliance, for example, emissions and overnight parking. Marshall Katz asked Mr. Marcus to focus the Board specifically on what issues are not in compliance. Mr. Marcus said that Wesley Hills has a statute that no form of pollution is permitted that is detrimental to the public and that overnight parking of vehicles over 5000 lbs. is not permitted on site. He questioned whether Mr. Katz and the Board read the materials he submitted. Ira Emanuel explained that they have been down this road before and that there are specific requirements and provisions issued by the Village Board of Trustees for this particular type of use which control over the general rules. Mr. Selig confirmed that the stipulation that was entered into provided restrictions and guidelines for the applicant to continue to utilize the site while this application process is going forward

which does not bind this Board in its ultimate determination to any restrictions that may be included in this special permit.

Mr. Selig stated that both sides have had adequate time and opportunity to present any and all expert witnesses, documentation or other testimony with respect to the merits of this application and it is appropriate at this time for this Board to move from the public hearing stage to the deliberative process. Mr. Marcus objected and Mr. Katz asked him if he had anything to add to let the Board know and Mr. Marcus responded that the Board should read what was submitted. Mr. Selig replied that everything that is in the record is in the record. Mr. Selig asked Liz Mello and Jeff Osterman if there were any comments on the site plan and they responded not at this time and, if necessary, a TAC meeting would be scheduled if there was anything significant.

Marshall Katz motioned to close the public hearing on the special permit. Uri Kirschner seconded.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes, Rachel Taub-Abstain
Motion Approved

APPROVE 12/02/09 PLANNING BOARD MINUTES.

Don Isenberg motioned to approve the 12/2/09 Planning Board minutes. Uri Kirschner seconded.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes
Motion Approved

Meeting adjourned 10:05 p.m.

