

**Village of Wesley Hills
Planning Board – October 29, 2008**

The meeting was called to order by Marshall Katz, Chairman, at 7:36 p.m.

Present: Marshall Katz-Chairman, Vera Brown-Deputy Chairman, Marvin Finker, Uri Kirschner, Ester Ben-Dov-Shucht – First Alternate, William Fried – Second Alternate

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

Absent: Don Isenberg

SKETCH PLAT APPLICATION CONTINUATION OF ALLAN VERMETTE FOR A PROPOSED TWO-LOT SUBDIVISION. Affecting property located on the east side of Route 306 approximately 130 feet south of Forest Glen Court. Known as Tax Parcel ID# 32.19-2-18 on the Ramapo Tax Map.

Mark Kurzmann, Esq. representing the applicant, informed the Board that all variances were approved by the Zoning Board of Appeals except for two resulting in a modification of the original layout. Mr. Kurzmann stated they were OK with all the review comments received from the Village Engineer dated 10/27/08. Liz Mello, Village Engineer, stated the new driveway layout attempts to satisfy the NYSDOT as well as the Fire Inspector's driveway width requirements. Ms. Mello confirmed that all previously raised items in her 12/18/07 comment memo were addressed in the revised sketch.

Jeff Osterman confirmed the updated plans include two separate entrances, one for each lot with no crossover, and no easement rights from the driveway from Lot 2 over to Lot 1. Mr. Osterman also confirmed the site distance of 475 ft. and 600 ft. on the new driveway(s).

Ester Ben-Dov-Shucht motioned to adopt the following resolution. Uri Kirschner seconded.
Resolution #08-23

WHEREAS, a formal application from Allan Vermette for approval of a sketch plat entitled "Vermette Subdivision, Village of Wesley Hills, Town of Ramapo, Rockland County, New York", dated October 17, 2007 and last revised August 27, 2008, prepared by Sparaco Engineering & Land Surveying, PC, affecting property on the easterly side of Route 306 designated on the Town of Ramapo Tax Map as Section 32.19, Block 2, Lot 18, in an R-35 District, was considered by the Planning Board at its regular meeting on October 29, 2008, and

WHEREAS, on July 31, 2008, the Zoning Board of Appeals of the Village of Wesley Hills granted variances for such subdivision subject to conditions set forth therein,

NOW, THEREFORE, BE IT RESOLVED, that said sketch plat is hereby approved subject to the following condition:

1. Compliance with all conditions imposed by the Zoning Board of Appeals in connection with the granting of such variances.

Vote: Marshall Katz-Yes, Vera Brown-Yes, Marvin Finker-Yes, Uri Kirschner-Yes, Ester Ben-Dov-Shucht-Yes.

Motion Approved

Marshall Katz and the Board granted the applicant's request for public hearings to be held simultaneously for the preliminary plat and final plat applications for the December 3, 2008 Planning Board meeting.

PUBLIC HEARING ON THE APPLICATION TO REVISE THE PREVIOUSLY APPROVED SPECIAL USE PERMIT FOR YESHIVAS OHR REUVEN INCREASING THE NUMBER OF ENROLLED ON-SITE STUDENTS TO 380 FROM PREVIOUS MAXIMUM OF 238. Affecting property located on the northwesterly side of Grandview Avenue, at the intersection of Spook Rock Road. Known as Tax Parcel ID#'s 40.16-1-17 & 18 on the Ramapo Tax Map.

Mark Kurzmann, Esq., representing the applicant, gave an overview of the application which primarily entails adding students for existing empty classrooms. Consultant Dr. Philip Grealey of John Collins Engineers briefly summarized his traffic study report. Edward Potenta of Potenta Environmental Consultants summarized his air quality and noise study reports. Jeff Osterman commented that all submitted studies supported no significant impact.

Marshall Katz asked Janice Golda if the public hearing notices were published, posted and mailed which was confirmed.

Moshe Barak, 3 Oren Court, expressed concern about living in a residential area that is becoming commercial. Mr. Barak also stated noise is on the increase from students especially in the play area which is located near his house. Mr. Barak questioned why the play area couldn't be located in the front of the property especially now that 2 to 3 schools have co-located on the property. Marshall Katz responded that schools have and continue to exist in residential neighborhoods and are not considered commercial use. Mr. Katz stated that federal and state laws also allow location flexibility for religious institutions and schools.

Vera Brown asked how many additional buses would be needed to handle the increase in students. Dr. Grealey responded approximately 20% for a maximum of 8 buses but presently the existing buses (24 buses during peak a.m. hours) are handling the increase.

Marvin Finker asked Mr. Potenta if a noise sensor was placed near Mr. Barak's property (Lot 22A1D1A2) and what if any was the difference in noise level due to the play area. Mr. Potenta responded 59 decibels was the maximum level measured when children were walking, talking, yelling, etc. past the monitor which was 64 feet away from the rooftop air conditioning equipment. At the resident's (Barak) property line it would be 6 decibels lower making it 53 decibels which is well below any published residential standards. Mr. Potenta re-iterated that the unamplified human voice is not regulated. Mr. Barak questioned the difference in noise level between 2 students talking versus the noise level of 100 students. Mr. Potenta responded the noise level of 100 students was included in the study.

Mr. Kurzmann repeated that there is no physical structure change and no outdoor sound amplification, e.g., megaphones, used on a regular basis (exception - first day of school and a couple of outdoor dinners). Rabbi Rudinsky stated that outdoor megaphones are against school policy and anyone doing this can be fired. Marvin Finker asked about the use of walkie-talkies and Mr. Potenta stated he doesn't see any negative impact. David Mayerfeld, architect, remarked that not only the height of the wall but also its surface texture muffles sound. Mr. Kurzmann also commented that when the school was originally built not one variance was required.

Ester Ben-Dov-Shucht asked if any testing was conducted when the children were actually playing in the small pre-school area. Mr. Potenta responded no. Frank Brown asked about arrival times and the grade level for the additional students. Mr. Kurzmann responded arrival times are staggered at both ends of the school day and the increase in students is primarily at the elementary level.

Marshall Katz stated the Board can approve SEQRA at this meeting but cannot approve the additional students until either a variance is approved by the Zoning Board of Appeals or the Zoning Law is changed by the Village Board. Frank Brown confirmed that until such determination, the public hearing will not be closed.

Marshall Katz motioned to adopt the following resolution. Marvin Finker seconded.
Resolution #08-24

WHEREAS, on September 8, 1994, by Resolution #94-22, the Planning Board granted a special permit for a school on premises located on the northwesterly side of Grandview Avenue, known as 259 Grandview Avenue and designated on the Town of Ramapo Tax Map as Section 40.16, Block 1, Lots 17 and 18, which special permit was subsequently revised on June 28, 2000 by Resolution #00-17 and on June 25, 2008 by Resolution #08-15; and

WHEREAS, Yeshivas Ohr Reuven has applied to the Planning Board for a further revision to that special permit to allow an increase in the maximum number of students from 238 to 380; and

WHEREAS, a duly advertised public hearing was held on said application at the Village Hall, 432 Route 306, Wesley Hills, New York on October 29, 2008, at which time all interested parties present were given an opportunity to be heard; and

WHEREAS, the Planning Board has considered the Full Environmental Assessment Form, Traffic Impact Evaluation Study, Noise Impact Assessment, and Air Quality Impact Assessment submitted by the applicant;

NOW, THEREFORE, BE IT RESOLVED, that the applicant is hereby directed to amend the Environmental Assessment Form, to the satisfaction of the Village's planning consultant, to disclose the involvement of the Board of Trustees in the approval process; and

BE IT FURTHER RESOLVED, that it is hereby determined that the proposed project and increase in the maximum number of students will not have a significant impact on the environment as defined by the State Environmental Quality Review Act (SEQRA) because the proposed revision to the special permit will result in no physical changes to the site and only changes in the School's student population and staff, and because the applicant has submitted studies conclusively demonstrating that there will be no negative impact on traffic, air quality, or noise resulting from the proposed application.

Vote: Marshall Katz-Yes, Vera Brown-Yes, Marvin Finker-Yes, Uri Kirschner-Yes, William Fried-Yes, Ester Ben-Dov-Shucht-Abstain.

Motion Approved

Public Hearing adjourned until December 3, 2008, contingent upon the Village Board's response to a pending revision to the "Minimum Required Lot Area for Schools" Zoning Law.

DISCUSSION ON A PROPOSED AMENDMENT TO THE ZONING LAW CONCERNING MINIMUM LOT AREA FOR SCHOOLS.

Frank Brown informed the Board of the existing law: "A lot must have a minimum area of 10 acres plus .01 additional acre for each pupil enrolled" which does not allow any allotment for students for the first 10 acres.

Jeff Osterman stated that the NYS standards for public schools are less restrictive for elementary versus secondary schools.

The Board discussed the acreage and student size of the other public schools within the Village of Wesley Hills. Uri Kirschner discussed reducing the minimum acreage.

Marshall Katz motioned the adoption of the following resolution. Vera Brown seconded.

Resolution #08-25

WHEREAS, the Board of Trustees of the Village of Wesley Hills is considering the adoption of a proposed local law entitled “A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills Concerning the Minimum Required Lot Area for Schools”; and

WHEREAS, the Board of Trustees has referred such proposed local law to this Board for review and report pursuant to Section 13.5 of the Zoning Law, and this Board has thereupon considered such proposed local law;

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby approves the form of such proposed local law and recommends its adoption, for the following reasons:

1. The sole purpose and effect of such proposed local law are to revise the minimum required lot area for schools in a manner consistent with New York State recommended standards for schools; and
2. For the foregoing reason, such proposed local law would be in furtherance of the purposes of the Zoning Law; and

BE IT FURTHER RESOLVED, that a copy of this Resolution, which shall be deemed to be a report of this Board, shall be transmitted to the Board of Trustees forthwith.

Vote: Marshall Katz-Yes, Vera Brown-Yes, Marvin Finker-Yes, Uri Kirschner-Yes, Ester Ben-Dov-Shucht-Yes.

Motion Approved

DISCUSSION ON A PROPOSED AMENDMENT TO THE ZONING LAW CONCERNING NEIGHBORHOOD GATHERING.

Frank Brown explained that if meetings in a house that is primarily used for residential purposes occur less than 3 days a week on a regular basis, they are not defined as neighborhood gatherings and therefore are not regulated. Meetings held in a house at least 3 days a week are defined as “minor neighborhood gatherings” or “neighborhood gatherings” dependent on the part of the building used (either 750 sq. ft. or 15% of use triggers categorization as a “neighborhood gathering”). Meetings in a building not simultaneously accepted as a residence would also be categorized as “neighborhood gatherings”. Frank Brown elaborated that the overriding philosophy of the Village Board is to try to significantly liberalize the regulations of gatherings, religious or otherwise, by reducing barriers (excluding issues of public safety and/or hardship to neighbors) to encourage compliance. The Board discussed, but not limited to, parking, number of times a day, revenue generation, annual review process, major road, noise, impervious surface and maximum building coverage.

Marvin Finker motioned adopting the following resolution. Ester Ben-Dov-Shucht seconded.

Resolution #08-26

WHEREAS, the Board of Trustees of the Village of Wesley Hills is considering The adoption of a proposed local law entitled “A Local Law Amending Local Law No. 14 of 1984, as Amended, to Revise the Zoning Law of the Village of Wesley Hills Concerning the Regulation of Neighborhood Gatherings”; and

WHEREAS, the Board of Trustees has referred such proposed local law to this Board for review and report pursuant to Section 13.5 of the Zoning Law, and this Board has thereupon considered such proposed local law;

NOW, THEREFORE, BE IT RESOLVED, that this Board hereby recommends that the Board of Trustees consider modifying such proposed local law in the following respects:

- (1) Addition of a provision explicitly prohibiting the use of a single-family residence as a minor neighborhood gathering or a neighborhood gathering where there is an intent to generate fees for such use of the premises. The Planning Board believes that the operation of the premises to generate fees should be regulated as a home business.
- (2) Addition of references in the Schedule of Use Regulations to the R-20 and R-15 Districts.
- (3) Elimination of the Planning Board’s proposed authority to review parking requirements after one year. The Planning Board believes that this is inappropriate because the Zoning Law does not allow similar subsequent review related to applications for any other special permit uses.
- (4) Addition of a reference to the applicant’s obligation to obtain an additional special permit pursuant to Zoning Law 6.9.14 in order to be authorized to have increased impervious surface. This is because the Planning Board is concerned that the combination of the proposed parking requirements and the proposed increase in maximum building coverage are likely to make it necessary for an applicant to seek permission for an increased impervious surface.

And BE IT FURTHER RESOLVED, that a copy of this Resolution, which shall be deemed to be a report of this Board, shall be transmitted to the Board of Trustees forthwith.

Vote: Marshall Katz-Yes, Marvin Finker-Yes, Uri Kirschner-Yes, Ester Ben-Dov-Shucht-Yes, William Fried-Yes. Vera Brown-Abstain (agrees in part and disagrees in part)

Motion Approved

At this point, Frank Brown and Vera Brown left the meeting.

UPDATE: 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 it has been way too long since the last meeting on this application. Jeff Osterman informed the Board that a proposal for an air quality study to determine standards and compliance with the new code was submitted to Ira Emanuel, Esq. in September 2008 and we're waiting for a response. Marshall Katz explained that the reason for this study is to make the Board comfortable that there are no environmental issues, e.g., noise, air quality, that will impact neighbors by establishing a definition as to what will or will not be acceptable.

Ira Emanuel, Esq., stated that the prior proposal from ANS Consultants dated February 29, 2008 was not responsive to the overall objective. Mr. Emanuel stated they now have the September 22, 2008 proposal from B. Laing Associates and wanted to know if the air quality standards in this proposal will be using the same standards that were used by Potenta Environmental Consultants for Yeshivas Ohr Reuven's study? Jeff Osterman responded yes. Mr. Emanuel stated that in Yeshivas Ohr Reuven's case emissions would be added to the baseline from additional buses. Mr. Emanuel wanted to know how the emissions in their case would clearly be segregated from the surrounding outside traffic activity considering their location near major roads. Mr. Emanuel commented that now that he is aware of the Potenta study and the established standards, he is more comfortable with proceeding forward.

Mr. Emanuel responded in regards to the proposed noise study by B. Laing Associates using the NYC Metro noise/vibration standards is for his client throwing out money since the previous agreement was to use the Rockland County Sanitary Code standards and tests have already been submitted. Mr. Emanuel stated that at the March 2008 TAC meeting the Village consultants recommended review of the methodology of existing tests. B. Laing Associates is proposing re-doing previously conducted and reviewed tests at a cost of \$15,000 to his client. Jeff Osterman suggested another TAC meeting. Mr. Emanuel said if the methodology is no good, they will deal with it. Marshall Katz asked the Village consultants to review the methodology of the existing tests so the Board can determine impact, if any, on the neighbors and finally make a decision on the application.

Mr. Emanuel stated that if there is definitive segregation on the air quality proposal, they are willing to proceed forward as long as there is the option of seeking another consultant who may be more economical. Marshall Katz asked Mr. Emanuel to make a decision on how they are proceeding so the Board can make a decision. Mr. Emanuel asked about the review of previously submitted air quality/noise studies. Jeff Osterman suggested Mr. Emanuel forward written questions to him for response.

Ben Selig recommends a rigorous schedule to move this process to closure. Mr. Selig asked Mr. Emanuel to set his position as to the Laing proposal and submit within two weeks. If

there is an agreement to all and/or part of the proposal, arrangements for the tests will be implemented immediately. Upon receipt one way or another, the Board will respond accordingly to bring this application to conclusion. Mr. Selig asked Mr. Emanuel for a response as to how they are going to proceed, Laing or another consultant, by the next meeting which is December 3, 2008.

Robert Feder, 29 McNamara Road, questioned why pre-requisite requirements for this special permit are taking two years to be determined and why wetlands issues/violations have not been addressed and this business continues to operate? Marshall Katz responded that the continuation of the business was a stipulation agreement made by the Court and the Village Board. Mr. Katz stated the Planning Board does not have the authority to stop business operations while the application process is in motion. In response to the pre-requisite requirements, Mr. Katz said the property is accessible to two major roads even though there is no set driveway at this time. Mr. Selig confirmed that the statute is clear and the property is two acres and it is up to the Board to consider as such. Mr. Katz said as far as any wetlands issues, it will be handled through code enforcement and the court system.

Suzanne Mair-Vasquez, 17 McNamara Road, presented a map of the current site highlighting where the stipulated agreement to 50' buffers between residences and the business, wetlands, etc. are located. Marshall Katz confirmed that the buffers are between the Wickes property and other properties regardless of where the owner's residence is located. Marshall Katz explained the 100' buffer area related to wetlands. It is under the purview of this Board to approve, via permit, any encroachment. Ms. Mair-Vasquez expressed concern about access and traffic congestion on McNamara Road. Marshall Katz will check the file and, if necessary, recommend a re-review by Chris Kear, the Village Fire Inspector. Ms. Mair-Vasquez asked why the existing pond was not enlarged per the 1972 Town of Ramapo site plan agreement. Ben Selig responded that we are presently working under the Village ZBA's determination along with the Village Board's stipulation and subsequent new statute. Mr. Selig stated that the Board would consider any criteria submitted that the property can't be utilized with the pond as is.

Neil Marcus, resident of the Village of New Hempstead, raised questions on compliance and practical access. Marshall Katz responded that practical access can be provided and Mr. Selig stated that there is nothing in the record as of this date that indicates that the lack of opening a second access to Union Road is a significant factor in the continued utilization of this property.

Mr. Marcus spoke about the two acre lot size and with the required setbacks there is little area left to conduct a commercial business within the 100' buffer wetlands limitation. Liz Mello responded that under the code for a minimum area of two acres, there are no area deductions for the wetlands buffer or the setbacks. Marshall Katz stated that there have been reasonable allowances made in wetlands buffers for various other applications in the Village.

Mr. Marcus questioned the difference between the requirements for this permit and the existing Village environmental laws. Mr. Marcus questioned why is there a need to

establish new standards when Village law has existing standards? Jeff Osterman replied that there is a need to develop more stringent applicable standards for this unique case in conjunction with meeting the Village standards.

Mr. Selig informed Mr. Marcus that if he has issues with the Village Board's actions, he should pursue it separate from the Planning Board. Mr. Selig explained that the Planning Board is charged with undertaking a thorough environmental review prior to making a determination as to whether or not to grant this special permit. Mr. Marcus asked if this Board is reviewing this application as new or a continuation of an existing business?

Marshall Katz responded they are reviewing this application under the zoning change that the Village Board created. Mr. Selig stated that the Board is reviewing whether the existing business as conducted is in compliance with environmental standards and, if not, what can be done to alleviate the issues and make it acceptable. Marshall Katz responded that this Board will not approve the permit unless it is run with minimum impact on the neighbors and meets all the laws.

The public hearing is continued until the December 3, 2008 meeting.

APPROVE 9/24/08 PLANNING BOARD MINUTES

Marvin Finker motioned to approve the 9/24/08 minutes. Ester Ben-Dov-Shucht seconded. Vote: Marshall Katz-Yes, Marvin Finker-Yes, Uri Kirschner-Yes, Ester Ben-Dov-Shucht-Yes, William Fried-Yes.

Motion Approved

Meeting adjourned 11:40 p.m.