

VILLAGE OF WESLEY HILLS
VILLAGE BOARD MEETING
JUNE 13, 2006

PRESENT: Mayor R. Frankl
Deputy Mayor E. Mc Pherson
Trustee D. Goldsmith
Trustee D. Gantshar
Trustee H. Richman
Village Attorney, F. Brown
Village Clerk J. Pagliaroli

The meeting was called to order by Mayor Frankl at 8:00 P.M. Mayor Frankl announced that Mr. Brown, Village Attorney, was not present at the meeting but would be here in 15 minutes and the Board would proceed with some matters before his arrival. Trustee Goldsmith made the following resolution:

RESOLUTION 74-06

RESOLVED, that the Minutes of the meeting of the Board of Trustees of the Village of Wesley Hills on May 9, 2006, with the minor correction on page 9 as indicated by Trustee Goldsmith, be approved, and that the reading of such Minutes be waived.

The resolution was seconded by Trustee Gantshar and so carried with a vote of 5 ayes and 0 nays.

Trustee Goldsmith made the following resolution:

RESOLUTION 75-06

RESOLVED, that the Minutes of the meeting of the Board of Trustees of the Village of Wesley Hills on May 23, 2006, as submitted by the Village Clerk, be approved, and that the reading of such Minutes be waived.

The resolution was seconded by Trustee Gantshar and so carried with a vote of 5 ayes and 0 nays.

There was no report from the Village Clerk.

Trustee Richman reported that there was progress in the web site update.

Trustee Goldsmith reported that he has been playing "phone tag" with Sgt. Emma regarding Lime Kiln and Route 306 and a "stop here on red" sign at that

intersection. He was also trying to ascertain what could be done about the sight lines on Hillside Court.

Trustee Gantshar reported to the Board that the forums had been postponed from June to August and he would try and find a date that the entire board could agree on. He reported that he wanted to have four forums a year.

Trustee Gantshar made the following resolution:

RESOLUTION 76-06

WHEREAS, on May 3, 2005 Leslie Laskin paid \$1,170.00 to the Village of Wesley Hills as an application fee for a building permit for an addition to an existing house on property located at 15 Deerwood Road, and

WHEREAS, the construction authorized by such building permit never was performed and will not be performed, and therefore no inspections by the Building Inspector ever were necessary, and

WHEREAS, the only work actually performed by the Building Inspector was the examination of the proposed construction plans and the issuance of said building permit,

NOW, THEREFORE, BE IT RESOLVED, that the sum of \$1100.00 which represents the portion of the building permit fee that covered services of the Building Inspector that were unnecessary and never were performed shall be refunded by the Village of Wesley Hills to Leslie Laskin, and

BE IT FURTHER RESOLVED, that the Village Treasurer is hereby directed to make payment accordingly.

The resolution was seconded by Trustee Richman and so carried with a vote of 5 ayes and 0 nays.

Village Attorney, Frank Brown arrived at the meeting at 8:20 P.M.

Trustee Goldsmith made the following resolution

RESOLUTION 77-06

RESOLVED, that general fund claims #1 through 32 in the aggregate amount of \$82,770.25 as set forth in Abstract #6-06 dated June 13, 2006,

a copy of which abstract of audited claims is made a part of the Minutes of this Board, are hereby approved.

The resolution was seconded by Trustee Richman and so carried with a vote of 5 ayes and 0 nays.

Trustee Goldsmith made the following resolution:

RESOLUTION 78-06

RESOLVED, that parks and recreation fund claim #174 in the amount of \$170.00, as set forth in Abstract #PR 1-06 dated June 13, 2006, a copy of which abstract of audited claim is made a part of the Minutes of this Board, is hereby approved.

The resolution was seconded by Trustee Richman and so carried with a vote of 5 ayes and 0 nays.

Trustee Gantshar made the following resolution:

RESOLUTON 79-06

WHEREAS, the Board of Trustees of the Village of Wesley Hills deems it to be in the interests of the Village to consider the enactment of a local law amending the Zoning Law of the Village of Wesley Hills in order to transfer the functions of the Architectural Review Board to the Planning Board in anticipation of the elimination of the Architectural Review Board, and

WHEREAS, the Village Attorney, at the request of this Board, has prepared such a proposed local law, a copy of which proposed local law is made a part of the Minutes of this Board,

NOW, THEREFORE, BE IT RESOLVED, that it is hereby determined that the enactment of such proposed local law will not have a significant effect on the environment as defined in the New York State Environmental Quality Review Act for the reasons that such proposed local law is procedural only and will not permit any additional construction, and therefore such proposed local law does not involve any matter having any adverse impact on the environment; and

BE IT FURTHER RESOLVED, that in accordance with the provisions of Section 13.5 of the Zoning Law of the Village of Wesley Hills, such 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 Required Architectural Review of Buildings”, is hereby referred for review and report to the Planning Board, Zoning Board of Appeals, Village Attorney, Village Engineer, Building Inspector, and Code Inspector of the Village of Wesley Hills; and

BE IT FURTHER RESOLVED, that the Village Clerk is hereby directed to forward copies of such proposed local law to such boards and officials forthwith.

The resolution was seconded by Trustee Goldsmith and so carried with a vote of 5 ayes and 0 nays.

Trustee Goldsmith made the following resolution:

RESOLUTION 80-06

WHEREAS, by Resolution #87-05 adopted on September 13, 2005, the Board of Trustees of the Village of Wesley Hills approved a Stipulation of Settlement settling the action brought against the Village by Kwilecki Enterprises, Inc., and Maccabee Construction, Inc., and

WHEREAS, such Stipulation of Settlement requires the Board of Trustees to entertain and review a Petition for Zone Change which would change the Zoning District of certain property located on the northerly side of Village Green and the easterly side of Route 306 from the R-35 District to a new R-20 District and which would change the Zoning District of certain property located on the southerly side of East Willow Tree Road and the easterly side of Route 306 from the R-35 District to a new R-13 District, and

WHEREAS, such Stipulation of Settlement has been signed as “so ordered” by Hon. Mary Smith, Justice of the Supreme Court of the State of New York, and

WHEREAS, such Petition for Zone Change has been submitted to the Board of Trustees of the Village of Wesley Hills by Kwilecki Enterprises, Inc., and Maccabee Construction, Inc., and

WHEREAS, the Board of Trustees therefore is required to, and deems it to be in the interests of the Village to, consider the enactment of a local law

amending the Zoning Law of the Village of Wesley Hills in accordance with the request presented by such Petition for Zone Change, and

WHEREAS, the Village Attorney, at the request of this Board, prepared such 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 to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", and a duly advertised public hearing on the adoption of such proposed local law was opened on November 15, 2005 and has been successively adjourned, most recently until July 11, 2006, and

WHEREAS among other things, such proposed local law included the establishment of a maximum floor area ratio for the proposed new R-20 and R-13 Zoning Districts, and

WHEREAS, during the pendency of the public hearing on the adoption of such proposed local law, on May 23, 2006 this Board adopted Local Law No. 2 of 2006, 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 Permitted Size of Dwellings", which eliminated the maximum floor area ratio requirement from the Zoning Law, replaced it with a maximum building coverage requirement, revised the definition of building height and modified the maximum height requirement accordingly, and set forth a new maximum exposed building height requirement, but no such new or revised requirements could be set forth in such law for the proposed new R-20 and R-13 Zoning Districts because such districts do not presently exist, and

WHEREAS, it is therefore necessary to modify the proposed local law that would establish such new R-20 and R-13 Zoning Districts so that they will include dimensional requirements for each such District that will be consistent with the current Table of Dimensional Requirements as amended by said Local Law No. 2 of 2006, and

WHEREAS, the Village Attorney, at the request of this Board, has prepared such a modified 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 to Establish Two New Zoning Districts and to Amend the Zoning Map of the Village of Wesley Hills", a copy of which proposed local law is made a part of the Minutes of this Board, and

WHEREAS, the only respects in which such modified proposed local law differs from the proposed local law bearing the same title for which a public hearing presently is open are that the new dimensional requirements are substituted for the prior dimensional requirements in the manner that will allow the construction of dwellings of approximately the same size, and therefore no additional referral to Village agencies and officials for review and report is necessary pursuant to Section 13.5 of the Zoning Law,

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the provisions of the Municipal Home Rule Law and Section 7-706 of the Village Law, a public hearing on the adoption of such modified proposed local law shall be held before the Board of Trustees of the Village of Wesley Hills, on the 11th day of July, 1006, at 8:00 P.M., at the Village Hall, 432 Route 306, in the Village of Wesley Hills, at which hearing citizens shall have an opportunity to be heard with respect to such local law, and

BE IT FURTHER RESOLVED, that the notice of the time and place of such public hearing shall be published and posted by the Village Clerk at least 10 days in advance of such time in the manner provided by law.

The resolution as seconded by Trustee Gantshar and so carried with a vote of 5 ayes and 0 nays.

Mayor Frankl called the public hearing on the proposed amendment to the Zoning Law concerning additional special permits uses to order at 9:00 P.M. Mayor Frankl asked if there were any comments from the public. Mr. Gordon Wren, of 3 Rockingham Road in Wesley Hills and Director of Fire & Emergency Services for Rockland County was before the Board. He urged the Board to give them approval with conditions. Ira Emanuel, Attorney for Ira Wickes, was before the Board. He spoke to the Board of the history of this application. He spoke about the petition handed in at the last public hearing and said that some of the signees wanted to have their names removed from the petition. He requested the board adopt the amendment to the zoning code. Ms. Catherine Gorman, Mayor from Montebello, addressed the Board in favor of passage of the amendment. Mr. Yeager of 229 Grandview Avenue in Wesley Hills addressed the Board in favor of passage of the resolution. Mr. Robbie Feeder of Nyack addressed the board. He was against the passage of the resolution. He said that he didn't think the board should take into consider the request of people asking them to pass the resolution. He said that if the members of the Board do pass the resolution they will have to answer for it. Mr. Marcus from New

Hempstead addressed the Board. He said that the chipping and mulching has always been a problem and the other problem is the way the business has been conducted. He said that the petition was passed around to Pomona, New Hempstead and Wesley Hills and the nature of the petition was to find out how people felt about down zoning; and people gave them support. He said the law is not reasonable. He said that the passage of this will not solve the problems but exacerbate their problems. He said the Village Board is morally and ethically corrupt. He advised that he has been advised to wait until this law has been completed before taking action. He said that legal action would be taken and wanted to let the Board know on what basis the Village would be sued. He said that the basis of the suit would be violation of civil rights; racial discrimination, because one of the neighbors is Afro-American; religious discrimination, because this law is being considered to keep the property from being sold to religious groups. Mr. Yeager addressed the board again. He said that he has a special permit to operate his business and he is Jewish and has never had discrimination directed toward him and that, in his opinion, this is a most professional board. Mrs. Snodsmith was before the Board. She stated that she signed the petition and asked to have her name taken off. Mr. Marcus stated that the neighbors feel that the law affects Wesley Hills and also affects the greater community and that New Hempstead and the Rockland County Planning Board have been concerned about this issue. Mr. Brian Willow was before the Board. He stated that this has gone on long enough and there should be some resolution. Mr. John Kaufman was before the Board. He stated that he was a member of the Fire Department and was an EMT with Spring Hill Ambulance Corps and never had a call to the Wickes location. Trustee Gantshar made a motion to close the public hearing at 10 PM. The motion was seconded by Trustee Goldsmith and so carried. Mr. Brown advised the Board that the Rockland County Planning Board came back with 19 recommendations, which he had discussed with the Planning Consultant. He advised that if three of the Board members want to vote against the law, it is a simple matter and he present a sample resolution to decline the adoption of this resolution. If there are not at least three members to vote against this resolution then the Board must proceed and go over the recommendations line by line to see if the Board members want to change the law and if other modifications are to be made. If there are recommendations that the Board did not want to accept the Board would need a vote of four to one to override the recommendations of the Rockland County Planning Board. The Board went over the recommendations. Trustee Goldsmith asked about their comments on the EAF. Mr. Brown advised the board that it was not their responsibility to make comments on the EAF only on the proposed law. Deputy Mayor Mc Pherson said that he believes that Frank Brown's answers are good and he would consider accepting the recommendations. Trustee Gantshar stated he had a recent conversation with the Deputy Mayor of New Hempstead and he said that the Deputy Mayor of New

Hempstead had witnessed one of the Wickes trucks emptying materials into the sewer system. That was denied by Mr. Wickes who advised the Board that they had a permit to fill from the fire hydrant and that people do not understand that it is allowed. Mr. Brown advised that if the resolution was passed tonight Mr. Wickes has 60 days to make an application to the Planning Board. It was discussed that the DEC regulates pesticides at the site and the Department of Transportation on the trucks. Storm water management is regulated by the DEC. Discussion was held on the wording best management practice. Trustee Gantshar addressed Mr. Marcus and told him that there was no racial or religious discrimination practiced by the Village Board and that he was personal upset by that allegation.

Mayor Frankl asked for a short break.

Mr. Brown asked that since the board was heading for a vote if the recommendation to remove the question from the Planning Board regarding the fencing. Trustee Goldsmith said he was agreeable with the override of recommendations 4 and 5 from the Rockland County Planning Board. Trustee Richman said that the Planning Board has been dealing with this type of issue for years and it should not be changed. Trustee Gantshar said that went along with the concerns of the Board. Trustee Goldsmith said that he had a problem with the law in that it is too general. He said that he would be okay to have this specific to the two sites but not any other site that could be put together. The special use permits are dealt with the Planning Board and they can put restrictions on it. He stated that the only problem with the law is that he is okay where it is because it has been there but did not want it to pop up anywhere else. Mr. Brown advised the Board that this particular question had been presented to the Rockland County Planning Board and they were asked (A) not to do this (B) considered for only certain lots or (C) the way the law was constructed. The Rockland County Planning Board chose the last choice. Trustee Richman made the following resolution:

RESOLUTION 81-06

WHEREAS, the Board of Trustees of the Village of Wesley Hills has held a public hearing on the 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 to Authorize Additional Special Permit Uses", and

WHEREAS, the Board of Trustees has received and reviewed the letter report of the Rockland County Department of Planning dated March 21,

2006 submitted pursuant to General Municipal Law sections 239-1 and 239-m,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees hereby makes the following modifications to said proposed local law, based upon the comments of the Rockland County Department of Planning:

(1) A new Section 2A is hereby added to said proposed local law, to read as follows: "The definition of "MAJOR ROAD", contained in Section 2.4 of Local Law No. 14 of 1984, as amended by Local Law No. 7 of 1988, Local Law No. 3 of 1990, Local Law No. 2 of 1991, and Local Law No. 1 of 1999, is hereby further amended to add the following road to the list of major roads contained therein: Union Road."

(2) Section 6 of said proposed local law is hereby modified to add the following sentence to new Section 6.9.16b: "If either Major Road shall be a County road, designed access shall be subject to the approval of the Rockland County Superintendent of Highways or his representative pursuant to Highway Law Section 136."

(3) Section 6 of said proposed local law is hereby modified to revise new Section 6.9.16f to read as follows: "The total amount of materials stored on the site shall not exceed 200 cubic yards per net acre (herein defined as the gross lot area less areas of slopes in excess of 25% and all areas of wetlands and water bodies and flood plains). Not more than 25 cubic yards of stone or gravel per net acre shall be permitted on the premises. All structures for the storage of materials shall have at least three sides and a cover. Such storage structures shall not exceed 25 cubic yards capacity, each, for stone and/or gravel. Such storage structures shall not exceed 50 cubic yards per net acre capacity, each, for other materials. The Planning Board shall determine the locations of all such storage structures, which locations shall comply with the requirements of Subdivision c of this Section. Such storage structures shall be located outside of flood plains, wetlands, and areas with unexcavated slopes over 25%."

(4) Section 6 of said proposed local law is hereby modified to revise the first sentence of new Section 6.9.16i to read as follows: "The use shall comply with the performance standards required by

Section 4.5 of this local law and by Article XII of the Rockland County Sanitary Code.”

And

BE IT FURTHER RESOLVED, that the 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 to Authorize Additional Special Permit Uses”, as so modified by this Resolution, is hereby approved and enacted as Local Law No. 3 of 2006, and

BE IT FURTHER RESOLVED, that this Board hereby determines to act contrary to the following numbered recommendations of modification set forth in the portion of said letter report of the Rockland County Department of Planning dated March 21, 2006 titled “Review of the Proposed Local Law”, for the reasons set forth hereinbelow:

- (1) Recommendation 1, for the reason that the Rockland County Highway Department has already reviewed a sufficiently similar prior version of this proposed local law on October 8, 2004, its comments at that time have been incorporated into said local law, and no further site-specific review can be accomplished until an actual site plan application has been submitted to the Planning Board.
- (2) Recommendation 4, for the reason that the Village’s planning consultant recommends that the Planning Board should be granted the power to alter setbacks in appropriate circumstances, which is consistent with the similar discretion vested in the Planning Board in connection with the grant of special permits for private membership clubs, neighborhood facilities, camps day car centers, and schools.
- (3) Recommendation 5, for the reason that the Village’s planning consultant recommends that the Planning Board should be granted to substitute walls or fences for landscaping in appropriate circumstances, which is consistent with the similar discretion vested in the Planning Board in reviewing other uses.
- (4) Recommendation 6, for the reason that there is no reasonable way to determine the number and characteristics of vehicles except

in the context of a site-specific review of an actual site plan application by the Planning Board.

(5) Recommendation 9, for the reason that the Board of Trustees deliberately intends to include in said local law best management plan requirements and notification requirements that exceed those required by federal, state, and county regulations.

(6) Recommendation 10, for the reason that the Planning Board is in the best position to determine the hours of operation of such special permit use on a site-specific basis in the context of its evaluation of the application pursuant to SEQRA.

(7) Recommendation 11, for the reason that vehicular emission standards should be the same for all special permit uses, not just those authorized by said local law, and in any event compliance with the standards set forth in Article XII of the Rockland County Sanitary Code is required.

(8) Recommendation 13, for the reason that said local law requires that any such proposed special permit use must comply with noise levels required by the Rockland County Health Department, and therefore no special permit can be granted by the Planning Board unless it determines on a site-specific basis that the use applied for will comply with such requirements.

(9) Recommendation 14, for the reason that said local law already unambiguously requires that there be no degradation of surface water quality or groundwater quality, and minimum required assessment measures already are specified therein, so that no meaningful addition to said local law can be made in this respect.

(10) Recommendations 15, 16 and 17 for the reason that those standards related to storm water runoff, soil and erosion control plan, and water supply issues apply to all development projects in the Village, not just to the special permit uses authorized by said local law, and the Planning Board already requires compliance by any approved use.

(11) Recommendation 18, for the reason that the Village's planning consultant recommends that the level of traffic impact analysis should be made by the Planning Board in connection with its site-

specific review (including the review mandated by SEQRA) of specific special permit and site plan applications.

(12) Recommendation 19, for the reason that a factual inaccuracy underlies this recommendation, inasmuch as wholesale nurseries are not permitted principal uses in the R-35 District.

And

BE IT FURTHER RESOLVED, that this Board hereby finds that said local law and the procedures for its adoption already comply with the following numbered recommendations of modification set forth in the portion of said letter report of the Rockland County Department of Planning dated March 21, 2006 titled "Review of the Proposed Local Law": 1 (to the extent noted hereinabove) and 3.

The resolution was seconded by Trustee Goldsmith and carried with a vote as follows: Mayor Frankl, aye; Deputy Mayor Mc Pherson, aye; Trustee Goldsmith, aye; Trustee Richman, aye; and Trustee Gantshar, aye.

Ms. Catherine Gorman was before the Board and wanted to thank the Board for planting the tree in memory of Monsignor Sacamore.

Mayor Frankl asked the Board to start thinking about Wesley Hills Day.

Mr. Schwartz was before the Village Board. He thanked the Board for trying to correct the drainage problem on his property but the dry wells that were installed are not correcting the problem. He request the Board contact the Town of Ramapo, who installed the drainage pipe years ago, and have them correct the problem.

Trustee Gantshar made a motion to adjourn was seconded by Trustee Goldsmith and so carried.

Respectfully submitted,

Julie Pagliaroli
Village Clerk