

Village of Wesley Hills
Zoning Board of Appeals
April 15, 2015

The meeting was called to order at 8:12pm by Jonathan Gewirtz.

Present: Richard Weinberger-Chairman (arrived late), Dr. Willie Bryant, Jonathan Gewirtz, Carole Anderson-Alternate, Joshua Herbst-Alternate

Also Present: Doris Ulman-Attorney to the Zoning Board, Cheryl Slyus-Secretary

Absent: Felicia Hirshfeld, Jan Hilgeman

Item I:

Continuation of the Public Hearing on the application of Miriam Aronoff for variances from the provisions of Section 5.2 of the Zoning Law of the Village of Wesley hills, to permit the construction, maintenance and use of a three story addition to an existing single family residence having 20.8 feet less than the required front yard of 50 feet at Route 306, 10 feet less than the required rear yard of 50 feet, building coverage of .15 instead of the maximum permitted of .10 and a height of three stories instead of the maximum permitted of two and one half stories.

The subject premises are situated on the northeasterly corner of Route 306 and Pearl Drive, known as 2 Pearl Drive, designated on the Tax Map as Section 41.07 Block 1 Lot 31 in an R-35 Zoning District.

Ira Emanuel, Esq. Stanley Mayerfeld, Architect and Miriam Aronoff, DDS., Applicant appeared.

Mr. Emanuel gave a brief synopsis of the application. The proposal is for an addition which will extend the house out 15 feet to the north plus an additional story above which extends across the back of the house. Mr. Emanuel believes all Board Members attended one of two site visits. He then said the reasoning for the variances has been set forth in the narrative. Mr. Emanuel continued since the last meeting they have received a memo from the Rockland County Planning Department pursuant to GML review. This memo has two recommended modifications:

1. Applicant is to abide by the requirements in the New York State Department of Transportation letter. The DOT basically has no problem with the project but wants to make sure that the addition be accompanied by storm water management techniques to provide zero new runoff. Applicant has submitted a storm water management plan to the Wesley Hills Village Engineer for the site. Mr. Emanuel Does not know if the Village Engineer has provided any comments yet but if the ZBA were to grant the variance this evening, Mr. Emanuel states affirmatively that granting would be conditioned upon meeting the storm water requirements of the Village Engineer.
2. Mr. Emanuel summarized his March 23, 2015 letter to the Rockland County Planning Department re" their policy of not granting variances for new construction. He read the Planning Department comments verbatim to the Board members. Mr. Emanuel does not agree with the

Planning Department especially as concerns environmental impact. Under the NYS Environmental Quality Review Act these types of variances effecting single family homes are Type II actions. That means they are pre-determined to have little or no impact on the environment. With respect to water usage, a single family home, irrespective of its size, pays a one sewer unit fee. The simple reason is that a single family house is occupied by a single family.

Mr. Emanuel than said the size of the house does not correlate with the generation of traffic. Conversely, a small house can have four adult with cars or a large house can have two adults with cars. There is twice the traffic coming out of the small house. The concerns of the Planning Departments are invalid.

Mr. Emanuel said they ask the ZBA to override the second item in the County Planning Department letter.

Ms. Ulman advised the Board members that she feels overriding the modifications is the preferable action of the Board doesn't agree with them.

In response to questions from Mr. Herbst, Mr. Emanuel said the home professional office has nothing to do with the County Planning Department letter. The home professional office will be there whether or not these variances are granted. Mr. Emanuel than said that Wesley Hills requires every home to have a garage. The Aronoff's do not have a garage because of the grandfathering. In the original narrative they talked about what would happen if the home professional office was taken away. The 847 square foot office would be converted into a 560 square foot two car garage leaving only 287 square feet available for additional living space. This is less than they are requesting.

Mr. Emanuel presented letters in support of granting the variances from applicant's neighbors.

Mr. Gewirtz read the letters into the record.

Mr. Emanuel than said at one of the site visits there was a concern about what the house was going to look like. Mr. Emanuel wants to remind the Board that even though a third story is proposed, because of the way the house is built and designed, they are not exceeding the absolute maximum height of 40 feet. They are a height of 28 feet.

Mr. Mayerfeld discussed the R-35 zone and requested variances and said is a high ranch so the first floor is already above grade. According to the zoning code it is called the second story. They want to go up another story but will be well below the maximum building height. They will be sensitive to the height, the addition will be within the roof line so it is not a tall or aggressive to the height, the addition will be within the roofline so it not as tall or aggressive in terms of its appearance on Route 306. Photographs were shown to the Board members.

Dr. Bryant said the addition is on the side and back of the house. The effect is not the same as if it were on the front of the house.

A discussion was held.

Mr. Weinberger asked if these were any questions.

Dr. Bryant asked if the Board had to vote on the override first or is it in combination with the requested variances.

Ms. Ulman said it is one resolution.

Mr. Gewirtz said there are a number of variances but it is not the fault of the owner that what should be zoned R-15 is called R-35. It is an undersized lot. The setback from Route 306 is not changing, it is existing.

Mr. Herbst asked for clarification of the permitted two and a half stories.

Mr. Emanuel said he has yet to figure out what a half story is.

Mr. Weinberger said let the record indicate there is a letter in the village file from Sonny Lin, P.E. of the Department of Highways dated February 18,, 2015 noting there is no objection to the granting of the requested variances, additionally, a Rockland County work permit will not be required.

Dr. Bryant reviewed the conditions to be dealt with: 1) storm water management and, 2) override of the second comment in the Rockland County Planning Department letter.

Willie Bryant made a motion that was seconded by Jonathan Gewirtz to close the public hearing, the following vote was taken: Richard Weinberger-yes, Willie Bryant-yes, Jonathan Gewirtz-yes, Carole Anderson-yes, Joshua Herbst-yes.

Mr. Weinberger asked if the Board members have any questions or comments.

Mr. Gewirtz said this is an undersized lot and the actual impact of some of the variances are not changing the appearance or proximately to the road. He doesn't have a problem with the variance for building coverage because the lot is undersized. The variance that concerns him the most is the three stories, however, the pictures submitted by the architect calm him to a certain extent. The additional story will be placed under the roof line making it not apparent from road.

Dr. Bryant said the third story was one of his major concerns as well. They are requesting 28 feet in height and that satisfies him. This lot was originally R-15 and rezoned R-35. This compounds the variances.

Ms. Ulman noted that the subdivision was changed to R-35.

Dr. Bryant said due to the fact that these lots have been rezoned, the applicant did not create the situation, Dr. Bryant also said he does not feel the variances are substantial because of the rezoning and granting these variances will not change the character of the neighborhood.

Mr. Weinberger commented that he made a site visit and his general reaction is that the proposed constriction is not inconsistent with the neighborhood.

In the Matter of the Application of Miriam Aronoff Premises situated on the northeastern corner of Route 306 and Pearl Drive, known as 2 Pearl Drive, designed on the Tax Map as Section 41.07 Block 1 Lot 31, in an R-35 Zoning District.

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Miriam Aronoff for variances from the provisions of Section 5.2 of the Zoning Law of the Village of Wesley Hills, to permit the construction, maintenance and use of an addition to a single family residence having 20.8 feet less than the minimum required front yard of 50 feet at Route 306, 10 feet less than the minimum required rear yard of 50 feet, building converge of .15 instead of the maximum permitted of .10 and a height of 3 stories instead of the maximum permitted of 2 and a half stories, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on February 18, 2015, which hearing was continued on April 15, 2015, and

WHEREAS, the applicant appeared in person and by her attorney and her architect, and testified as follows:

That when this house was constructed in the 1960's the zoning of this property and the entire subdivision was R-15;

That the zoning was changed to R-35 sometime after 1965 so that the existing bulk table is non-conforming, the larger bulk requirements created a hardship for residents in this subdivision because it limits their ability to expand the house;

That the proposed addition is to accommodate applicant's larger family and the grandparents that visit often;

That the existing home professional office that has a Special Permit from the Wesley Hills Planning Board will not be increased in size nor change in any way;

That the proposed addition is considered three stories because the windows of the lowest level of the high ranch are on grade even though the rooms are below grade;

That even though the addition is considered three stories the height will not exceed 28 feet;

That the largest portion of the addition is to the rear of the house which will encroach only 10 feet into the rear yard; the encroachment into the front yard is only 3 feet;

That any addition to this house would require variances and the location proposed requires the smallest variances and is the least intrusive into the neighborhood and will not impact any of the surrounding properties; and

WHEREAS, two neighbors appeared in opposition to the application, fearing that the house will become multi-family, and

WHEREAS, members of the Zoning Board of Appeals visited the site to view the proposed location of the addition,

NOW, THEREFORE, IT IS HEREBY DETERMINED that the proposed action will not have significant adverse impact on the environment for the reasons that the use as a single family residence with home professional office will not change, the height of the building will not exceed 28 feet which is well within the maximum height permitted in the zone, and the applicant will be required to comply with the zero net increase in water runoff to the satisfaction of the Village Engineering Consultant, and be it further,

RESOLVED, that the application submitted by Miriam Aronoff for variances from the provisions of Section 5.2 of the Zoning law of the Village of Wesley Hills, to permit the construction, maintenance and use of a three story addition to a single family residence having 20.8 feet less than the minimum front yard of 50 feet at Route 306, 10 feet less than the minimum rear yard requirement of 50 feet and building coverage of .15 instead of the maximum permitted of .10 are hereby granted, subject to the following conditions:

1. Compliance with the New York State Department of Transportation letter dated February 4, 2015;
2. Compliance with the Village Engineering Consultant's requirements for a storm water management plan;
3. That the third story will be designed within the current roof line;
4. Compliance with the Rockland County Planning Department's GML review letter dated February 27, 2015, expect that the Zoning Board of Appeals overrides the second recommendation of said letter for the reason that this property and the subdivision in which it is situated are unique because, although the current zoning is R-35, the houses were constructed when the zoning district was R-15, thus special consideration should be given which will not impact other neighborhoods, and be it further

RESOLVED, that the Zoning Board of Appeals hereby makes the following FINDINGS OF FACT:

1. That although the variances are substantial, this property and the surrounding properties are unique in that they were up zoned from R-15 to R-35 after the house were constructed so that almost any addition would require a variance;
2. That there is no feasible alternative because of the way the rooms are situated;
3. That there will be no detriment to the adjoining properties or the environment because a storm water management plan will be prepared that is subject to approval of the Village Engineering Consultant and the height of the building will not exceed 28 feet and will be within the existing roof line.
4. That the benefit to the applicant by granting the variance is great and greatly outweighs any potential detriment to adjoining properties or to the community.

Willie Bryant made a motion seconded by Jonathan Gewirtz to approve the requested variances subject to compliance with the February 4, 2015 NYSDOT letter and subject to the Village Engineer's approval of the storm water plan. Additionally, the second comment in the RC Planning Department letter of March

23, 2015 is to be overridden. No additional consideration is necessary. The following vote was taken: Richard Weinberger-yes, Willie Bryant-yes, Jonathan Gewirtz-yes, Carole Anderson-yes, Joshua Herbst abstained.

Item II:

Public Hearing on the application of Naftali Klein for variances from the provisions of Section 130-17, attached 1 of the Code of the Village of Wesley Hills, to permit the maintenance and use of a carport having 20.5 feet less than the minimum required side yard of 25 feet and 5.1 feet less than the minimum required total side yard of 60 feet and a shed having 22.2 feet less than the minimum required side yard of 25 feet and 8.1 feet less than the minimum required total side yard of 60 feet.

The subject premises are situated on the south side of South Parker Drive, approximately 75 feet west of Martha Road, known as 73 South Parker Drive, designed on the Tax Map as Section 41.18 Block 1 Lot 45, in an R-35 Zoning District.

Naftali Klein, applicant appeared.

Mr. Klein affirmed to tell the truth and gave his presentation.

During the heavy snow and rain in 2014 the carport roof caved in. when they finally finished up with the insurance company they began to rebuild the structure. Mr. Klein said he was not aware he needed a permit to rebuild what was there for 19 years. In the middle of construction a stop work order was issued by the Wesley Hills Building Inspector, John Layne. Applicant submitted plans and a building permit was issued. Mr. Klein said Mr. Layne advised him that he would investigate whether a new survey would be necessary and have an answer in a day or two. Two weeks went by without any word from Mr. Layne and Mr. Klein assumed a new survey wasn't required. He had the building permit and finished the carport after which Mr. Layne told him a new survey was needed. A new survey was done and Mr. Layne said the side yards weren't good and that's why he is before the ZBA.

Me. Weinberger asked Mr. Klein if he has seen the updated memo from the Village Engineer.

Mr. Klein answered yes; he has a copy.

Mr. Weinberger then said at this point rather than having any discussion he will entertain a motion to adjourn the application and schedule a site visit.

Ms. Ulman said a dated copy of the building permit issued to Mr. Klein should be submitted at the next meeting. Ms. Ulman also clarified that the rebuilt structure has two open side and two closed sides which is the same as the original structure.

Dr. Bryant asked if Mr. Klein has photographs of the original carport.

Mr. Klein does not have any photographs of the original carport; he was not able to secure any from the insurance company after the settlement, however, the insurance company called the structure a carport.

Following discussion among the Board members a site visit was scheduled for May 17, 2015.

Mr. Weinberger asked if there was any further commentary.

Ms. Ulman said we haven't addressed the shed.

Mr. Klein noted the shed has also been in this location for many years.

Ms. Ulman said the Village Engineer has raised issues about having the structure on the easement.

Mr. Klein stated he went to Ramapo today and discovered the easement has been there since 1960. Nobody knows why the pipe is there. It has been done dry for 19 years and is solely on his property. The pipe runs from his backyard to his front yard. It services no one else.

Ms. Ulman asked that for the next meeting Mr. Klein should provide the whole history of the shed and carport. In addition to the building permit give us any documents from Wesley Hills or Ramapo relating to those two issues. Get anything you have into the record.

Mr. Weinberger suggested Mr. Klein speak with Elizabeth Mello, Village Engineer regarding her memo.

Mr. Klein said he may secure the services of an attorney to represent him.

Dr. Bryant said the Board has five questions to answer when we consider the benefit to the Applicant vs. the detriment to the health, safety and welfare of the neighborhood. Documentation is very important to our process.

Jonathan Gewirtz made a motion seconded by Willie Bryant to adjourn the public hearing to May 20, 2015 at 8pm. The following vote was taken: Richard Weinberger-yes, Jonathan Gewirtz-yes, Willie Bryant-yes, Carole Anderson-yes, Joshua Herbst-yes.

Jonathan Gewirtz made a motion seconded by Richard Weinberger to adjourn the meeting. The following vote was taken: Richard Weinberger-yes, Jonathan Gewirtz-yes, Willie Bryant-yes, Carole Anderson-yes, Joshua Herbst-yes.