

Village of Wesley Hills
Zoning Board of Appeals
January 21, 2015

The meeting was called to order at 8:10 P.M. by Richard Weinberger, Chairman.

Present: Richard Weinberger-Chairman, Dr. Willie Bryant, Carole Anderson-Alternate,
Joshua Herbst- Alternate

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

Absent: Jonathan Gewirtz, Felicia Hirshfeld, Jan Hilgeman

Item I:

Continuation of the Public Hearing on the application of Robert Rimberg 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 in-ground swimming pool, cabana and circular driveway having 20 feet less than the minimum rear yard requirement of 50 feet and an impervious surface ratio of .29 instead of the maximum permitted of .20.

The subject premises are situated on the south side of Baker Lane known as 7 Baker Lane, designated on the Tax Map as Section 41.07 Block 2 Lot 39 in an R-50 Zoning District.

Michael Leone of Prestige Pool, & Patio Inc. and Robert Rimberg, Applicant appeared.

Mr. Leone affirmed to tell the truth and said this application was before the ZBA a few months back (October 22, 2014) and the only issue seemed to be the need for a wetlands permit. They went to the Planning Board for an initial meeting and a second time for the public hearing. The Planning Board approved the permit but requested applicant add a couple wetlands plantings along the actual wetlands and also move the construction entrance.

Mr. Weinberger verified that applicant has seen the Town of Ramapo Department of Public Works letter dated December 2, 2014. Mr. Weinberger then asked Mr. Leone if he wished to present anything else.

Mr. Leone said the other concern of the Planning Board is the drainage easement in the property and a pipe owned by the town. Prestige Pool made provisions to put a bridge over that pipe during construction. All the mentioned corrections are on the revised plan given to the Zoning Board.

Mr. Weinberger asked if any Board member had a question.

Ms. Ulman said on the revised plan that was received January 7, 2015 there is an additional variance which is also referred to in the granted Planning Board decision. In the first site plan the Engineer [Gdanski Consultants] did not include the maximum building coverage variance which he says is .14 instead of .10. Ms. Ulman said this is not a substantial change but it is necessary for the applicant to amend the application to include the additional variance so it can be reviewed by the Board or applicant will have to come back before the ZBA again.

Mr. Leone said it was worded differently and the Board asked that it be changed to maximum building coverage.

Ms. Ulman said the application referred to floor area ratio which is not a Village requirement.

Mr. Weinberger asked for clarification.

Ms. Ulman said we are asking the applicant to amend the application to include the third variance which is the building coverage of .14 instead of .10. Applicant can verbally ask the Board to amend the application.

Mr. Weinberger asked Mr. Rimberg if he had any comments. Mr. Rimberg said everything will be amended per Ms. Ulman's suggestions and he asks the Board to approve the requested variances.

Mr. Weinberger then said let the record indicate there is no one from the public to make any comments on this application.

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

Mr. Weinberger asked if there were any questions or comments from the Board. There were none.

In the matter of the Application of Robert Rimberg, Premises situated on the south side of Baker Lane, known as 7 Baker Lane, designated on the Tax Map as Section 41.17 Block 2 Lot 39, in an R-50 Zoning District.

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Robert Rimberg 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 in-ground swimming pool, cabana and circular driveway having 20 feet less than the minimum rear yard requirement of 50 feet and an impervious surface ratio of .29 instead of the maximum permitted of .20, and,

WHEREAS, after due notice, a public hearing on said application was held on October 22, 2014, which hearing was continued on January 21, 2015, and

That there are a considerable amount of wetlands on the property and a 20 foot wide drainage easement that crosses the entire property behind the house so that the only place to locate a pool and cabana are as proposed and require the variances requested;

That applicant has obtained a wetlands permit from the Wesley Hills Planning Board and will comply with the conditions required;

That the lot is over an acre but because of the wetlands, the net use of the property is limited; and

WHEREAS, the applicant requested an amendment to include an additional variance of building coverage of .14 instead of the maximum permitted of .10 which was granted by the Zoning Board of Appeals, and

WHEREAS, no one appeared in opposition to the application,

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the application submitted by Robert Rimberg for variances from the provision of Section 5.2 of the Zoning Law of the Village of Wesley Hills, to permit the construction, maintenance and use of an in-ground swimming pool, cabana and driveway having 20 feet less than the minimum required rear yard of 50 feet, an impervious surface ratio of .29 instead of the maximum permitted of .20 and building coverage of .14 instead of the maximum permitted of .10 hereby approved, subject to the following conditions:

1. Compliance with all conditions required in the wetlands permit issued by the Wesley Hills Planning Board.
2. Compliance with the Ramapo Department of Public Works letter dated December 2, 2014, and be it further

RESOLVED, that the Zoning Board of Appeals accepts the negative declaration issued by the Wesley Hills Planning Board in the issuance of the Wetlands Permit, and be it further

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

1. That there is no feasible alternative to the granting of the variances since the location of the pool is limited by the wetlands on the site and the drainage easement;
2. That there will be no change in the character of the neighborhood or detriment to nearby properties by granting the variance since the pool and cabana will be screened from adjoining properties and a drainage system approved by the Village Engineer will be installed.
3. That there will be not be a significant adverse impact on the environmental because these issues were addressed by the Wesley Hills Planning Board in the issuance of the Wetlands Permit;
4. That the benefit to the applicant by granting the variances is great whereas no detriment to neighboring properties or to the community have been identified.

Richard Weinberger made a motion seconded by Willie Bryant to grant the variances subject to the conditions of the Wesley Hills Planning Board Resolution #15-1 dated January 7, 2015 and that the applicant shall comply with all the conditions set forth in the Town of Ramapo Department of Public Works letter dated December 2, 2014. The applicant shall pay a wetlands permit fee of \$552.50 as set forth in the Planning Board resolution. The following vote was taken: Richard Weinberger-yes, Willie Bryant-yes, Carole Anderson-yes, Joshua Herbst-yes.

Item II:

Public Hearing on the application of Sam and Michelle Levinson for a variance from the provisions of Section 5.2 of the Zoning Law of the Village of Wesley Hills to permit the maintenance and use of a generator and air conditioning unit attached to the residence, having 10 feet less than the minimum required front yard of 50 feet.

The subject premises are situated on the southeast corner of Wilder Road and Willow Tree Road, known as 2 Wilder Road, designated on the Tax Map as Section 41.10 Block 2 Lot 45.1 in an R-35 Zoning District.

Ira Emanuel, Esq. and Mark Platas, General Contractor appeared on behalf of applicant.

Mr. Emanuel said we are here this evening because sometime in the past year or so a generator and heat pump unit were installed next to existing air conditioning units, apparently within the required front yard. The Building Inspector noticed that and advised the need for a variance. The heat pump and generator were placed where all the other mechanicals are located and where the electricity comes in. If you go past the house you will notice a row of very thick, tall arbor vitae that block most of the view of the house. You cannot see any of the mechanicals from the road. Mr. Emanuel then said he provided to the Board a cut sheet with specifications for the generator unit so the Board would have an idea of what the generator noise level is. Mr. Emanuel said generators have to be exercised once a month in addition to operation when they are needed. This particular generator makes 58 decibels of sound at 27 feet away when exercised. The farther away you get the lower the sound. Mr. Emanuel referred the Board members to a chart from Perdue University, page 2, which says 60 decibels is conversation at a restaurant, office background music or an air conditioning unit at 100 feet. The bottom line is that the generator, when exercising, does not make a lot of noise and certainly will not make a lot of noise when heard from the street which is about 50 feet away.

Mr. Weinberger verified that Mr. Emanuel has received a copy of the Rockland County Department of Planning letter dated December 1, 2014 and a copy of the Rockland County Department of Highways letter dated December 17, 2014.

Mr. Emanuel said they will comply with the county work permit if the County Highway Department insists.

Mr. Weinberger asked if the Board members had any questions for Mr. Emanuel.

Dr. Bryant asked how long the generator has been in place and have there been any complaints from neighbors.

Mark Platas, general contractor, affirmed to tell the truth and said he was not involved in the installation; he is not able to answer Dr. Bryant's question.

Mr. Emanuel said it has been over a year and he is unaware of any complaints. Mr. Emanuel then said he is not sure how the need for the variance came about. It is possible that it came up when applications were made for the adjacent house. The two homes are intended to function as a single compound.

Mr. Emanuel went over a drawing with the Board members showing the house they are talking about, the area where the mechanicals are located, the adjoining house now undergoing renovations, the driveway, etc. Mr. Emanuel said this entire layout was submitted to the Building Inspector and it's possible the need for this variance was picked up when the Building Inspector reviewed that layout.

Mr. Weinberger asked who installed the gas generator and why were they not in compliance at the time as indicated in the Building Inspector's letter of October 6, 2014.

Mr. Emanuel said Mr. Platas is here as a contractor familiar with construction techniques and construction requirements and because he is familiar with the site in general since September 2014.

Mr. Weinberger said the Building Inspector makes reference to the fact that he is denying a building permit to install a gas generator.

Mr. Platas said the generator was installed prior to the Building Inspector's letter.

Mr. Weinberger asked for clarification.

Ms. Ulman said that is the only way they could get to the Zoning Board. In order to correct the violation the village had two alternatives. They could have issued a violation which they did not do or the applicant can ask for a permit from the Building Inspector. The Building Inspector denies and they appeal to the Zoning Board. Otherwise they can't apply for the variance. They need that denial from the Building Inspector.

Mr. Weinberger said they installed the generator without a building permit.

Ms. Ulman said they obviously didn't realize that it was considered part of the building.

Mr. Weinberger asked if the Board had any questions.

Mr. Herbst asked the noise level of the generator when it is operating.

Mr. Emanuel said per the specifications it operates at 64 decibels.

Mr. Weinberger said let the record indicate there is no one from the public to speak on this application.

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

In the Matter of the Application of Sam and Michele Levinson, Premises situation at the southeast corner of Wilder Road and Willow Tree Road, known as 2 Wilder Road, designated on the Tax Map as Section 41.10 Block 2 Lot 45.1 in an R-35 Zoning District.

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Sam and Michelle Levinson for a variance from the provisions of Section 5.2 of the Zoning Law of the Village of Wesley Hills, to permit the maintenance and use of a generator and air conditioning unit attached to the residence, having 10 feet less than the minimum required front yard of 50 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on November 19, 2014, which hearing was continued on January 21, 2015, and

WHEREAS, the applicant appeared by the attorney and their contractor, and testified as follows:

The equipment was placed where all other mechanicals are situated and where the electricity enters the residence;

The applicant did not realize that they needed a building permit and variance when the generator was installed;

The decibel reading for the generator is 58 decibels when the generator is tested every month and 64 decibels when it is working fully;

The noise will hardly be audible from the street and will not be visible because of the arborvitae surrounding the lots, and

WHEREAS, no one appeared in opposition to the application, and

WHEREAS, members of the Zoning Board of Appeals visited the site to view the equipment,

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the proposed action is a Type II action and does not require a SEQR determination, and be it further

RESOLVED, that the application submitted by Sam and Michelle Levinson for a variance from the provisions of Section 5.2 of the Zoning Law of the Village of Wesley Hills, to permit the maintenance and use of a generator and air conditioning unit attached to the residence, having 10 feet less than the required minimum front yard of 50 feet is hereby granted, subject to compliance with the Rockland County Planning Department letter dated December 1, 2014 and the Rockland County Highway Department letter dated December 17, 2014, and be it further,

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

1. That there is no feasible alternative to granting the variance since the equipment is situated in the area where electricity enters the residence;
2. That the variance is not substantial in relation to the requirement in that it is only a 20% variance from the requirement;
3. That the decibel levels of the equipment will be mitigated by the distance from the property line and the aesthetics will be mitigated by the landscaping along the property line;
4. That the benefit to the application by granting the variance is great whereas no detriment to adjoining properties or to the neighborhood have been identified.

Willie Bryant made a motion seconded by Carole Anderson to grant the requested variance subject to compliance with the conditions of the Rockland County Department of Planning letter dated December 1, 2014 and compliance with the conditions of the Rockland County Department of Highways letter dated December 17, 2014. The following vote was taken: Richard Weinberger-yes, Willie Bryant-yes, Carole Anderson-yes, Joshua Herbst-yes.

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