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**Village of Wesley Hills  
Zoning Board of Appeals  
Village Hall  
Wednesday, August 16, 2017**

**MEMBERS PRESENT:**

Richard Weinberger, Chairman  
Carole Anderson  
Jan Hilgeman  
Dennis Dale  
Mordechai Schwab, Ad Hoc

**MEMBERS ABSENT:**

Jonathan Gewirtz  
Randi Marlin, Ad Hoc

**OTHERS PRESENT:**

Doris Ulman, Assistant Village Attorney  
Camille Guido-Downey, Village Clerk

Chairman Weinberger called the meeting to order at 8:05 p.m.

**Item #3**

**Mike Sussholz -28 Charlotte Drive**

Stanley Mayerfeld, Architect for the Applicant was present and was affirmed to tell the truth. Mr. Mayerfeld stated that there was a site visit on the property on Sunday, August 13<sup>th</sup>. Mr. Mayerfeld refreshed the Board Members with the project and stated that this lot is located in the R-35 zone and it is a small lot which is under 35,000 sf and there is an existing home located in the lot which will be removed and a new home will be constructed. Applicant is seeking variances for one side yard of 20 feet instead of the minimum required of 25 feet, total side yard of 44.2 feet instead of the minimum required of 60 feet and building coverage of .112 instead of the maximum required of .10. Mr. Mayerfeld stated that the character of the neighborhood will not change with the construction of this new home. Mr. Mayerfeld stated that this home has a special set back that was noted on the original plan; however the Village Attorney has stated that it does not apply.

Doris Ulman stated that this is an average density lot that was approved under the Town of Ramapo. The Village of Wesley Hills code does not reduce any setback for average density lots, therefore, variances are required.

Stanley Mayerfeld stated that he has designed the home to have the most used areas of the home closest to the Rosen's property and the driveway is on the Bush's side. Mr. Mayerfeld stated that he designed the home that way as the Rosen's side has a steep slope and a driveway could not be placed on that side. Mr. Mayerfeld also stated that the driveway radii needs to be 30° and that can only be achieved if the driveway remains on the Bush's side. Mr. Mayerfeld stated that the large tree in the front of the property will have to be removed to accommodate the driveway and the correct turning radii for the driveway. Mr. Mayerfeld stated that any trees located on the Bush's property will remain. Mr. Mayerfeld submitted a letter from Hanina Sussholz detailing the driveway removal, picture of current trees, picture of proposed trees and plot plan showing

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the location of the new trees. Mr. Mayerfeld also submitted a letter from Robert Silber, Builder who states that he will remove the driveway being as carefully as possible and that he can remove the driveway without damaging the trees.

Rabbi Bush, 30 Charlotte Drive was present and was affirmed to tell the truth. Mr. Bush is concerned that the size of the proposed home is 6,000 sf which is double the size of the original home. There is a 100 year old oak tree that will be removed and can that be saved?

Stanley Mayerfeld stated that he can appreciate that the neighbor wants to save the trees however the request to save the 100 year old oak is beyond the scope of the applicant accommodating the neighbor. The tree is located in the way of the new driveway and there is no other location for the driveway due to the slope of the front yard.

Chairman Weinberger stated that property owners are allowed to build what the law allows and if the law allows a 6,000sf home, the applicant is allowed to do that. Chairman Weinberger stated that the Applicant has been accommodating the neighbor during this process.

Alan Messner, 15 Rochelle Lane was present and affirmed and stated that he looks forward to the renovation of the home and move in.

Rob Silber, 4 Fosse Court was present and affirmed and stated that he is the builder of the proposed home and he loves trees. Mr. Silber stated the old tree must be removed as it is lower than the driveway and the slope is too steep to move the driveway and garage.

26 Charlotte Drive was present and affirmed and stated that they are excited to have the Sussholz's as neighbors. The renovation will enhance the neighborhood.

There were no other comments from the public.

At 8:33 pm Dennis Dale made a motion to close the public hearing, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

Dennis Dale made a motion to approve the application of Mike Sussholz subject to the following conditions:

1. Compliance with the Applicant's and builder's letters 8/14/17 in reference to the landscaping, the plot plan and photographs.

Seconded by Mordechai Schwab. Upon vote, this motion carried (Hilgeman abstained).

**In the Matter of the Applicant of**

**Mike Sussholz**

**Premises situated on the south side of Charlotte Drive approximately  
530 feet west of Park Terrace, known as 28 Charlotte Drive, designated  
On the Tax Map as Section 41.08 Block 2 Lot 44, in an R-35 Zoning District**

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**WHEREAS**, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Mike Sussholz for variances from the provisions of Section 230-17 the Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a single family residence having one side yard of 20 feet instead of the minimum required of 25 feet, total side yard of 44.2 feet instead of the minimum required of 60 feet and building coverage of .112 instead of the maximum permitted of .10, and

**WHEREAS**, after due notice, a public hearing was held by the Zoning Board of Appeals on July 19, 2017, which hearing was continued on August 16, 2017, and

**WHEREAS**, the applicant appeared in person and by his architect and contractor, who testified as follows:

That the lot is an average density lot that was approved under the Town of Ramapo before the Village incorporation;

That the applicant intends to demolish the existing house and to construct a new residence;

That when applicant purchased the property he thought he would not need setback variances because he would comply with the original setbacks approved by Ramapo under average density; however, the Wesley Hills Zoning Law does not reduce setbacks for average density lots;

That the proposed residence is 2,950 square feet which is not an excessively large house and would not have required a variance if the lot was not average density;

That the existing driveway will be removed and a garage and driveway will be constructed on the east side of the house, unfortunately a large oak tree at the front of the property will have to be removed;

That the garage and driveway cannot be located at the west side of the house because of the slope of the property; and

**WHEREAS**, the adjoining property owner on the east was concerned about the loss of the 100 year old oak tree at the front of the property and that the removal of the existing driveway would damage the trees along the property line close to the driveway; and

**WHEREAS**, another property owner appeared in support of the application; and

**WHEREAS**, members of the Zoning Board of Appeals visited the site and viewed the existing and proposed construction; and

**WHEREAS**, a letter was submitted on behalf of the applicant together with a plot plan and photographs showing installation of trees along the east side of the property to provide screening for the property on the east; and

**WHEREAS**, the applicant's contractor submitted a statement that he is able to remove the existing driveway without damaging the trees on the adjoining property and that if any trees are damaged, he will replace them;

**NOW, THEREFORE, IT IS HEREBY DETERMINED** that the proposed action is an unlisted action and there will not be a significant adverse impact on the environment for the reason that there will be no change in the use of the property that may increase in water runoff caused by the increase in building coverage will be litigated when reviewed by the Village Engineering Consultant, and be it further

**RESOLVED**, that the applicant submitted by Mike Sussholz for variances from the provisions of Section 230-17 the Table of Dimensional Requirements of the Code of the Village of Wesley Hills to permit the construction, maintenance and use of a single family residence having one side yard of 20 feet instead of the minimum required of 25 feet, total side yard of 44.2 feet instead of the minimum required of 60 feet and building coverage of .112 instead of the maximum permitted of .10 is hereby approved subject to the condition that the applicant shall comply with the letter, plot plan and photographs submitted by Hanian Sussholz dated 8/16/17 and the letter submitted by Robert Silber, contractor, dated 8/16/17, and be it further

**RESOLVED**, that the Zoning Board of Appeals hereby makes the following **Finding of Facts**:

1. That the variance are not substantial in that the building overage variance is only 10% and the setback variance 25%;
2. That there will be no change in the character of the neighborhood or detriment to the environment because the use of the property will remain single family and no detriment to the environment or the neighborhood has been identified;
3. That applicant's consultants have shown that the new garage and driveway should be placed on the east side of the residence, thereby requiring the removal of the 100 year old oak tree at the front of the property;
4. That there will be minimal detriment to adjacent properties because of the substantial screening that will be installed along the east property line of the property;
5. That the benefit to the applicant by granting the variances is substantial whereas any detriment to neighboring properties or to the community will be minimal, and be it further

**RESOLVED**, that all variances granted by the Zoning Board of Appeals automatically expire on one year unless substantial construction in accordance therewith has been complete.

**Item #4**  
**Alan Messner-15 Rochelle Lane**

Stanley Mayerfeld, Architect for the Applicant was present and was affirmed to tell the truth. Mr. Mayerfeld stated that this home was recently constructed and upon final review, it was noticed

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by the Village Engineer that the covered porch needs a variance. The covered porch was always on the plans and they are here to hopefully obtain that variance due to the over sight.

Doris Ulman stated that on the prior plan there was a 42 foot setback that was indicated with a dotted line that has been removed as per her request.

Stanley Mayerfeld Chairman stated that a site visit occurred on Sunday, August 13<sup>th</sup> at 9:30am and there were no concerns.

Doris Ulman stated that the applicant has constructed a turnaround next to the driveway as noted on the plan and that area needs a variance for parking as per Section 230-28A which prohibits the parking in the front yard. Since the turnaround is larger than a regular driveway. Ms. Ulman stated the Applicant should amend their application to include this variance.

Stanley Mayerfeld made a request to amend the application of Alan Messner to include the suggested variance for parking in the front yard.

Dennis Dale made a motion to accept the amendment, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

No one from the public wished to speak.

Jan Hilgeman made a motion to close the public hearing, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Carole Anderson made a motion to approve the application of Alan Messner which includes the front yard variance, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

**In the Matter of the Applicant of**

**Alan Messner**

**Premises situated on the north side of the Rochelle Lane**

**Approximately 530 feet north of East Willow Tree Road,**

**Known as 15 Rochelle Lane, designed on the Tax Map**

**As Section 41.8 Block 2 Lot 58.7, in an R-35 Zoning District**

**WHEREAS**, application has been made to the Wesley Hills Zoning Board of Appeals by Alan Messner for a variance from the provisions of Section 230-17 Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the maintenance and use of a single family residence having a front yard of 42 feet instead of the minimum required of 50 feet, and

**WHEREAS**, after due notice, a public hearing on the application was held by the Zoning Board of Appeals on July 19, 2017, which hearing was continued on August 16, 2017, and

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**WHEREAS**, the applicant appeared in person and by his architect, who testified as follows:

That after the house was constructed the Village Engineering Consultant found that the covered front porch was only 42 feet from the front property line;

That, prior to construction, neither the applicant nor his contractor knew that a variance would be required;

That to remove the front porch would ruin the design of the house; and

**WHEREAS**, the applicant requested that the application be amended to include a variance from the provisions of Section 230-28A of the Code of the Village of Wesley Hills to permit parking in the front yard because there is a turn-around area in the front yard that could be used for parking, as well; 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 project,

**NOW, THEREFORE IT IS HEREBY DETERMINED** that the proposed action is a Type II action pursuant to SEQRA and no further determination is required, and be it further

**RESOLVED**, that the request for an amendment to the application to add a variance from the provisions of Section 230-28A of the Code is hereby granted, and be it further

**RESOLVED**, that the application submitted by Alan Messner for a variance to permit the maintenance and use of a single family residence having a front yard of 42 feet instead of the minimum required of 50 feet and to permit parking in the front yard turnaround is hereby granted, and be it further

**RESOLVED**, that the Zoning Board of Appeals hereby makes the following **Finding of Facts**:

1. That the front yard variance is not substantial in that it is less than 20% of the requirement;
2. That because the driveway is in front of the garage a turnaround area is needed so that vehicles would not destroy the aesthetics of the house and removal of the turnaround area would cause vehicles to back into the street;
3. That there is no feasible alternative to granting the variances since removing the front porch would destroy the aesthetics of the house and removal of the turnaround area would cause vehicles to back onto the street;
4. That no detriment to adjoining properties or to the neighborhood has been identified;
5. That the benefit to the applicant by granting the variance is substantial whereas there has been no evidence to detriment to the community, and be it further

**RESOLVED**, that all variances granted by the Zoning Board of Appeals automatically expire in one year unless substantial construction in accordance therewith has been completed.

**Item #5**

**Bassie Hurwitz-89 Spook Rock Road**

Mark Kurzmann, Esq, was present on behalf of the applicant. Mr. Kurzmann stated that his client has been referred to the Zoning Board by the Planning Board and in the application packet is the referral resolution. The Application is for a two-lot subdivision with a number of variances. Mr. Kurzmann stated that a lot of the variances are required as they are creating a flag lot. The Fire Inspector has approved the design layout which required the large wider driveway. The seepage system has been designed and reviewed by the Village Engineer. Mr. Kurzmann stated that the side yard and total side yard on Lot #1 are requested due to the driveway on Lot #2. There is no visual effect and the existing lot will remain unchanged. There is no detriment to the area as nothing can be seen from the roadway except another driveway. The impervious surface variance for Lot #2 is triggered because of the length of the driveway. There is no negative effect to the area. The Village Engineer has also reviewed the proposed drainage system.

Jan Hilgeman stated that the impervious surface is 2.5 times the maximum permitted and she is concerned with the calculation of the lot as it includes the 8,000 sf driveway.

Mr. Kurzmann stated that the applicant is subdividing the property for financial reasons and currently utilizing the existing home as a summer home. The existing home will be rented out or sold.

Doris Ulman questioned what is the width of the driveway on lot #2?

Mark Kurzmann answered 14 to 16 feet as it gets wider towards the rear of the property.

Doris Ulman requested that the calculations be provided for the required variances.

Mr. Kurzmann stated that the design has been reviewed by the planner and engineer.

Alan Deyong, 5 Oren Court was present and affirmed. Mr. Deyong stated that his expertise is an eye doctor and not a real estate agent so some of his questions may be silly. Mr. Deyong stated that he has some concerns regarding the variances being granted and feels that they are excessive. He is further concerned that his view will be affected. Mr. Deyong stated that he was asked by Mr. Kurzmann to get access to the new home from Oren Court which is a private roadway. Mr. Deyong stated that he will not grant access for that. Mr. Deyong questioned if the stone wall will remain, who does an environmental study, what about the well and septic tank?

Chairman Weinberger stated that Mr. Deyong should speak with Mr. Kurzmann and everyone should attend the site visit however a lot of the issues that you are questioning are Planning Board issues.

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Mark Kurzmann stated that he did speak with Mr. Deyong and did ask to get access though Oren Court and Mr. Deyong did refuse and Mr. Deyong did also refuse to meet with me to discuss the project.

Chairman Weinberger and the Board Members selected Sunday, September 24<sup>th</sup> at 9am for the site visit.

Doris Ulman stated that no SEQR has been started and the ZBA will have an uncoordinated review.

Carole Anderson made a motion to continue the public hearing for the application of Bassie Hurwitz of 89 Spook Rock Road to September 27, 2017 at 8pm, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

#### **Item #6**

##### **Miriam Aronoff-2 Pearl Drive**

Ira Emanuel, Esq. was present and stated that his client has received a variance in 2015 and construction was delayed for the project and the variance lapsed. Mr. Emanuel stated that there is no change to the application.

Chairman Weinberger and Board Members stated that no site visit is needed as they remember this application well.

Jan Hilgeman made a motion to waive the site visit, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

No one from the public wished to speak.

Mordechai Schwab made a motion to approve the Application of Miriam Aronoff of 2 Pearl Drive subject to the same conditions of the previous approval:

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, except 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

Seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.



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**In the Matter of the Application of  
Miriam Aronoff**

**Premises situated on the north side of Pearl Drive  
At the corner with Route 306, known as 2 Pearl Drive,  
designated 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 to permit the construction, maintenance and use of an addition to a single family residences having a front yard 29.2 feet instead the minimum required of 50 feet, rear yard of 40 feet instead of the minimum required of 50 feet, building converge of .15 instead of the maximum permitted of .10 and having a height of 3 stories instead of the maximum permitted of 2 ½ stories, and

**WHEREAS**, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on August 16, 2017, and

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

That the request variances had been approved by this Board in April 2015 but due to unforeseen circumstances the addition was not built;

That the variances requested this evening are exactly the same as those that were approved in April 2015;

That all of the facts testified to at the February 2015 hearing remain the same;

That there have been no changes to the facts or circumstances since 2015; and

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

**WHEREAS**, the Zoning Board of Appeals waived the site visit because members remembered the application from April 2015,

**NOW, THEREFORE, IT IS HEREBY DETERMINED**, that the application submitted by Miriam Aronoff for variances to permit the construction, maintenance and use of a addition to a single family residence is hereby approved, and be it further,

**RESOLVED**, that the decision of the Zoning Board of Appeals made on April 15, 2015 is hereby reapproved and attached hereto in it entirely, and be it further

**RESOLVED**, that all variances granted by the Zoning Board of Appeals automatically expire in one year unless substantial construction in accordance therewith have been complete.

**In the Matter of the Application of**

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**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;

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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.

**Item #7**

**Adoption of Minutes- July 19, 2017**

Jan Hilgeman made a motion to approve the Zoning Board of Appeals Minutes of July 19, 2017 seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

At 9:44 Jan Hilgeman made a motion to adjourn, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully Submitted,

Camille Guido-Downey  
Village Clerk