

10/25/17  
ZBA

**Village of Wesley Hills  
Zoning Board of Appeals  
Village Hall  
Wednesday, October 25, 2017**

**MEMBERS PRESENT:**

Richard Weinberger, Chairman  
Carole Anderson  
Jonathan Gewirtz  
Dennis Dale  
Mordechai Schwab, Ad Hoc  
Randi Marlin, Ad Hoc

**MEMBERS ABSENT:**

Jan Hilgeman

**OTHERS PRESENT:**

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

Chairman Weinberger called the meeting to order at 8:04 p.m.

**Item #3**

**Bassie Hurwitz-89 Spook Rock Road**

Mark Kurzmann, Esq, was present on behalf of the applicant. Mr. Kurzmann stated that there was a site visit on October 22, 2017. Mr. Kurzmann stated that at the last meeting the Board wanted to get the updated GML from the County. That has been received and all of the comments have been addressed by the Applicant. Mr. Kurzmann stated that the County of Rockland did not review the updated plans that were sent to them on September 18, 2017. A copy of the cover letter was provided to the Board last month.

Chairman Weinberger stated that he is not comfortable with reviewing each item from the County GML to ensure that the proper changes have been made. Chairman Weinberger stated that the County should supply an updated review letter. The ZBA should not override any conditions of approval.

Jonathan Gewirtz stated that the ZBA should be looking at the plan and ensuring that the changes are made.

Doris Ulman stated that if the Board decided to approve the application, the approval would be subject to the County GML and any other agency memos the Village received.

Alan Deyong, 5 Oren Court was present and affirmed. Dr. Deyong questioned what are the height requirements for a new home?

Jonathan Gewirtz answered 2.5 stories.

Dr. Deyong stated that at the previous meeting the ZBA agreed to have his comments in reference to the septic and well should be forwarded to the Planning Board for them to address his concerns.

10/25/17

ZBA

Chairman Weinberger answered that if the Board wishes it can be forwarded to the Planning Board for their consideration.

Doris Ulman questioned if the Applicant researched the road dedication?

Mark Kurzmman answered no and stated that the County GML note in reference to the road dedication would only be a benefit to his client.

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

Randi Marlin questioned if the ZBA ever granted comparable variances in the past?

Jonathan Gewirtz answered yes and Doris Ulman provided a summary to the Board. Mr. Gewirtz stated that the Village is not setting a precedent by approving the required variances.

Randi Marlin stated that out of 500 cases, 7 were grant and 1 was denied.

Mark Kurzmman noted that he was the attorney for 3 of the 7 cases.

Chairman Weinberger made a motion to approve the application of Bassie Hurwitz-89 Spook Rock Road, seconded by Dennis Dale, subject to the following conditions:  
County GML dated 9/28/17, RC Highway memo dated 9/1/17, PB to determine the ownership of the fence and to review the concerns of Dr. Deyong in reference to the septic and well.

Roll Call Vote:

Carole Anderson	Abstained-need more time and information
Jonathan Gewirtz	Abstained-need more time and information
Mordechai Schwab, Ad Hoc	Abstained-need more time and information
Randi Marlin, Ad Hoc	Abstained-need more time and information

Doris Ulman stated that the ZBA should reserve decision to allow time for the members to review the application. The Application will be heard again on November 15, 2017.

Upon vote, this motion carried unanimously.

#### **Item #4**

#### **Eliana Braunstein-5 Rochelle Lane**

Ira Emanuel, Esq. was present for the applicant and described the following requested variances:

Cabana having a side yard of 14.4 feet instead of the minimum required of 25 feet  
Total side yard of 50.2 feet instead of the minimum required of 60 feet  
Pergola having a rear yard of 15 feet instead of the minimum required of 50 feet  
Generator having a side yard of 5.4 feet instead of the minimum required of 8.3 feet  
Rear yard of 8.1 feet instead of the minimum required of 16.7 feet

10/25/17

ZBA

Fence having a height of 10 feet instead of the maximum required of 6 feet

Building coverage of .12 instead of the maximum permitted of .10

Impervious surface of .33 instead of the maximum permitted of .25

Permit five accessory buildings instead of the maximum permitted of two accessory buildings.

Ira Emanuel stated that there are a number of things that make this property unique. Mr. Emanuel stated that the home was built in a new development and the homeowners are considering a pool and there are a number of constraints such as there is a geo thermo field located in the backyard. The geothermal system has pipes in the ground that carry heat and cold air to conserve energy/gas to the home and nothing can be placed on top of the pipes. On the left side there are trees and the home. Mr. Emanuel stated that the proposed cabana will be within the 15' height requirement. The generator on the property has a partial C of O. The proposal fence would be located around the pool and having a retailing wall of 4' already and adding a 6' fence creates the need for the variance.

Mr. Emanuel stated that the neighbors have some issues and there were discussions with all the parties tonight prior to this meeting. The applicant will be considering making changes to the plan which consist of the location of the fence and landscaping which may reduce or eliminate variances. The Applicant will come back next month with a revised plan.

Chairman Weinberger requested that the plan be updated to include a directional arrow.

Chairman Weinberger questioned if the Board should visit the site now or wait for the changes?

Ira Emanuel stated that he will request the directional arrow be placed on the plan and the Board should visit the site now.

Doris Ulman stated that she sent a letter to Mr. Emanuel in reference to needing clarifications on the requested variances, however since she did not hear back from Mr. Emanuel she advertised for those variances anyway.

Sam Levine, Esq. was present and stated that he represents Mr. Zupnik from 7 Rochelle Lane. Mr. Zupnik submitted a letter to the Board dated 7/26/17. Mr. Levine stated that they have discussed possible pool house changes. Mr. Levine stated that his client is concerned how close the pool house is to Mr. Zupnik's property and want to protect their privacy. Mr. Levine stated that there is an elevation difference between the two properties which concerns his client as it may obstruct his view. Mr. Levine stated that they have no objection to the placement of the generator.

Board Members set the walk thru for Sunday, November 12, 2017 at 9am.

Eli Loebenberg, 8 Deerwood Road was present and affirmed and stated that he is the back neighbor of the Applicant. Mr. Loebenberg stated that he is concerned with the number of variances, how close structures are being moved to his home and obstructing his views. Mr. Loebenberg stated that is hopeful that the changes will reflect his concerns.

Jonathan Gewirtz stated that he is happy that the Applicant and the neighbors had prior discussions as the Board always encourages open communication.

10/25/17

ZBA

Mr. Loebenberg stated the Applicant's attorney has stated that the cabana will be under the 15' height requirement, it is currently proposed at 18'. Mr. Loebenberg requested that cabana be moved to another location and be reduced in size and height.

Chairman Weinberger stated that the Board does like to see supporting letters from its neighbors.

Ira Emanuel answered that he will get letters.

Jonathan Gewirtz requested that the pool and pool house should be staked out for the site visit.

Ira Emanuel agreed and stated that the cabana roof height is 15' and since it is a gable roof the peak is 18' at its face. Mr. Emanuel stated that according to the maps Mr. Loebenberg's elevation and the Applications elevation is the same.

Doris Ulman requested the revised plans prior to the site visit.

Jonathan Gewirtz made a motion to continue the public hearing to November 15, 2017, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to enter executive session to discuss potential litigation, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

Mordechai Schwab made a motion to come out of executive session, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Item #5

**Adoption of Minutes- September 27, 2017**

Dennis Dale made a motion to approve the Zoning Board of Appeals Minutes of September 27, 2017 seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

**Adoption of Minutes- December 21, 2016**

Jonathan Gewirtz made a motion to approve the Zoning Board of Appeals Minutes of December 21, 2016, seconded Mordechai Schwab. Upon vote, this motion carried (Weinberger abstained)

Mordechai Schwab made a motion to adjourn, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully,  
Camille Guido-Downey