

9/27/17
ZBA

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, September 27, 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 8:10 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 Sunday, September 24, 2017 and he provided the Board with a color photo of the rear property of Lot #1 as per their request. Mr. Kurzmann stated that he is seeking approval for the negative declaration and approval of the requested variances. Mr. Kurzmann submitted packets of seven drawing each as requested by County Planning.

Mr. Kurzmann presented the application again for the public and Board Members and stated that 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 a longer 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.

Board Members stated that there is an ash tree that is located by the driveway that they would like to remain. Members further requested that page 4 of 7 on the plan to indicate same along with a condition of approval.

Mr. Kurzmann stated that they have no problem with the tree remaining.

Chairman Weinberger read into the record Jan Hilgeman's email dated 9/27/17 which states her concern over the subdivision at 89 Spook Rock and she does not believe the ZBA should set the

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precedent of allowing subdivisions that create lots that are less than the zoning minimums. She would be unlikely to vote in favor of this application.

Jonathan Gewirtz stated that the property is located in an R-50 zone and questioned if the ZBA has ever granted any variances for undersized lots?

Doris Ulman answered that she does not recall and would have to research and report back. The Village has had very few subdivision applications over the years with flag lots.

Board Members and Ms. Ulman discussed the variances that are requested and discussed the reductions that are noted on the plan.

Randi Marlin stated that she agrees with Jan Hilgeman's comment in reference to this setting a precedent.

Board Members stated that from the roadway there is no difference to the curb appeal.

Alan Deyong, 5 Oren Court was present and affirmed. Mr. Deyong stated that he was present at the site visit and understands that a lot of his concerns would have to be addressed at the Planning Board if the application proceeds.

Jonathan Gewirtz stated that during the site visit it was discussed that the house next door just sold and the new owners were not notified of the public hearing, however the proper procedure was followed and that would not delay the public hearing.

Alan Deyong, 5 Oren Court stated that he will discuss the well and septic tank with the Planning Board.

Chairman Weinberger stated that the ZBA can also make recommendations to the Planning Board in reference to Mr. Deyong's concerns about the well, septic tank and landscaping.

Mark Kurzmann stated that the well and septic tank need to be approved by the RC Health Department.

Mr. Deyong questioned the powers of the ZBA?

Jonathan Gewirtz explained the ZBA powers and the purpose of the Board.

Doris Ulman stated that the ZBA has not received the GML letter from the County Planning. The Village has received the RC Highway Department memo dated 9/1/17 and the RC Drainage letter dated 8/17/17.

Mr. Kurzmann stated that he has a County GML letter dated 8/22/17.

Doris Ulman received said copy from Mr. Kurzmann and stated that this letter is addressed to the Planning Board and that must be a mistake as the letter addresses the variances.

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Board Members directed the Village Clerk to contact the Planning Department tomorrow and obtain a full copy of the GML dated 8/22/17 as page 2 is missing and inquire if the letter should have been addressed to the ZBA.

Board Members stated that they would like to wait for the full GML letter before they proceed.

Jon Gewirtz made a motion to continue the public hearing to the October 25, 2017 at 8pm regular meeting of the ZBA, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Item #4

Chaya Kurtz – 12 Deerwood Road

Stanley Mayerfeld, Architect was present and affirmed to tell the truth. Mr. Mayerfeld stated that this project was approved by the ZBA in 2013-2014 and nothing has changed and the approval has expired. Mr. Mayerfeld stated nothing has changed with the plan that was previously approved, the Applicant did not move forward at the time of approval due to a growing family. Mr. Mayerfeld stated that the design of the home including a covered front porch which triggers the required variance. Mr. Mayerfeld stated that all the conditions of the previous approval would apply, the requested variance is not substantial, no change, not feasible to alter the plans due to the narrow lot and the location of the existing pool and there is no impact to the neighborhood. Mr. Mayerfeld provided the Board with letters of support.

Chairman Weinberger read into the record the following neighbors who provided letters of support:

Cohen, 14 Charlotte Drive
Klein, 19 Charlotte Drive
Pollak, 14 Deerwood Road
Lev, 6 Deerwood Road
Book, 15 Deerwood Road
Zupnik, 7 Rochelle Lane
Greenwald, 10 Deerwood Road

Mr. Mayerfeld stated that the Board at the previous meeting was kind enough to grant the approval for another application the same night and Mr. Kurtz is requesting the same tonight to get ahead of the winter season.

No one from the public wished to speak.

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

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Jonathan Gewirtz stated that he recalls the site visit and the approval. This home is located right after the curve on Deerwood and he remembers that the lot becomes narrow in the rear and understands why the home was moved forward.

Randi Marlin made a motion to waive the site visit, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to approve the application of Chaya Kurtz, 12 Deerwood Road for the requested variances subject to the same conditions as the previous approval from January 8, 2014, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

**In the Matter of the Application of
Chaya Kurtz
Premises situated on the east side of Deerwood
Road, known as 12 Deerwood Road, designated
on the Tax Map as Section 41.08, Block 2, Lot 53,
in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Chaya Kurtz 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 construction, maintenance and use of a single family residence having front yard of 40 feet instead of the minimum required of 50 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on September 27, 2017, and

WHEREAS, the applicant appeared by her architect, who testified as follows:

That the same variance has been approved by this Board in 2013/2014 but, due to a growing family, construction has not taken place and the variance has expired;

That all conditions of the property and of the prior application still apply and there have been no changes to the property or the proposed construction;

That the applicant requests that the site visit be waived and that the same decision as the prior one be made by the Board, and

WHEREAS, no one appeared in opposition to the application and the applicant submitted several letters in support, and

WHEREAS, members of the Zoning Board of Appeals stated that they remember the prior visit and the prior application,

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

RESOLVED, that the site visit to the property is hereby waived, and be it further

RESOLVED, that the application submitted by Chaya Kurtz 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 construction, maintenance and use of a single family residence having a front yard of 40 feet instead of the minimum required of 50 feet is hereby approved, and be it further

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

1. That the variance is not substantial in relation to the requirement in that it is only 20% of the required setback;
2. That the granting of the variance will not change the character of the neighborhood or the community because the house is a single family residence and is not substantially different from other houses on the street or in the neighborhood;
3. That there is no feasible alternative to the variance in that moving the house to another location on the lot would either locate it too close to the pool fence, creating a safety problem or locate it too close to neighbors properties, requiring additional variances;
4. That no adverse impact on the environment or detriment to the community have been identified and several neighbors have submitted letters in support of the application;
5. That the benefit to the applicant by granting the variance greatly outweighs any potential detriment to the community.

Item #5
Adoption of Minutes- August 16, 2017

Dennis Dale made a motion to approve the Zoning Board of Appeals Minutes of August 16, 2017 seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

At 8:54 Randi Marlin made a motion to adjourn, seconded by Jonathan Gewirtz. Upon vote, this motion carried unanimously.

Respectfully Submitted,

Camille Guido-Downey
Village Clerk