

**Village of Wesley Hills  
Zoning Board of Appeals  
Village Hall  
Wednesday, May 20, 2015**

**MEMBERS PRESENT:**

Richard Weinberger, Chairman  
Dr. Willie Bryant  
Jonathan Gewirtz  
Jan Hilgeman  
Felicia Hirshfeld  
Carole Anderson, Ad Hoc  
Jacob Herbst, Ad Hoc

**MEMBERS ABSENT:**

None

**OTHERS PRESENT:**

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

Chairman Weinberger called the meeting to order at 8:06 p.m.

**Item #1  
Naftali Klein**

Chairman Weinberger read into the record the following public hearing notice:

Continuation of the Public Hearing on the application of Naftali Klein for variances from the provisions of Section 130-17, Attachment 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, designated on the Tax Map as Section 41.18, Block 1 Lot 45, in an R-35 Zoning District.

Richard Sarajian, Esq. of Montalbano, Condon & Frank was present on behalf of the Applicant. Mr. Klein, Applicant was also present. Mr. Sarajian stated that he is in receipt of the County of Rockland Planning GML dated 5/12/15 and addressed the following comments:

Comment #1-Mr. Sarajian stated that the neighbor is the Town of Ramapo. As a property owner the Town received notification in the mail as an abutting property owner. Mr. Sarajian noted that as a matter of procedure according to the GML requirements the Village has also sent the Town and the Village of Montebello the application for review and comments.

Comment #2-there currently is a 25 foot drainage easement on the property which services the abutting property owner which is the Town of Ramapo. The easement is shown on the subdivision map and recorded with the County Clerk's office. The easement was deeded to the Town of Ramapo and when the Village was incorporated the Village should have taken over the rights. Mr. Sarajian stated that it is his opinion after conference with Mr. Berman at the Town Attorney's office that the easement is not for general municipal purposes; it is specifically for drainage for the adjacent property and there is piping underground. The easement is not to benefit the Town of Ramapo but to benefit them as the abutting property owner. Mr. Sarajian stated that he has delivered a package to the Town with the deeds and maps for their review. Chairman advised the Applicant to supply a copy to the Clerk for the Village's records. Mr. Sarajian stated that the Town may reject the easement, enter into a standard easement agreement or surrender the easement.

Comment #3-bulk table was added to the plan and there are no further variances required.

Chairman Weinberger noted for the record that the Zoning Board and the Board Attorney conducted a site visit on Sunday May 17, 2015 at 9am.

Chairman Weinberger questioned if any Board Members had any questions or concerns about the site visit?

Members responded no issues.

Dr. Willie Bryant stated that he is requesting proof that the carport and barn existed prior to the current owner.

Mr. Sarajian answered that they will provide proof.

Chairman Weinberger opened the public hearing.

No one from the public wished to speak.

Felicia Hirshfeld made a motion to adjourn the public hearing to the June 16, 2015 meeting to allow time for the Applicant to gather additional information, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

**Item #2**  
**Tiferes Yisrael**

Chairman Weinberger read into the record the following public hearing notice:

Public Hearing on the application of Tiferes Yisrael for variances from the provisions of the Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a mikvah having a front yard impervious surface ratio of .61 instead of the maximum permitted of .15 and a total impervious surface ratio of .33 instead of the maximum permitted of .20.

The subject premises are situated on the north side of Lime Kiln Road at the intersection with Roble Road known as 57 Lime Kiln Road designated on the Tax Map as Section 41.06, Block 1, Lot 21 in an R-50 Zoning District.

Morton Silberberg, Esq. was present on behalf of the Applicant. Asher Brand, Trustee for the congregation was present and both were affirmed for the record.

Jacob Herbst, Ad Hoc Member stated that he is a committee member of the congregation and feels that he can be impartial on this Application and does not see a problem hearing the Application.

Doris Ulman, Assistant Village Attorney stated that she does not see an issue as Mr. Herbst is an Ad Hoc member.

Mr. Silberberg stated that the congregation currently exists and has received previous approvals. The congregation wishes to make minor modifications to the site plan. The Applicant is proposing a mikvah to be built on the property of the congregation which will be funded under the corporation name Community Mikvah of Wilder.

Chairman Weinberger questioned if the mikvah is separate from the congregation?

Mr. Silberberg answered yes, but the mikvah will be owned by the congregation because it is on the congregations' property.

Chairman Weinberger confirmed that the congregation is a legal corporation and the mikvah is a separate legal corporation. Chairman requested copies of the legal documents of incorporation.

Mr. Silberberg stated that the Wesley Hills Planning Board has issued a referral to the ZBA for the required variances.

Chairman Weinberger stated that the following review memos were received:

1. Memo dated 5/5/15 from Rockland County Drainage.
2. GML dated 5/11/15 from Rockland County Planning Department.
3. Memo dated 5/20/15 from Rockland County Highway.

Asher Brand stated that he was provided all the review memos.

Chairman Weinberger stated that the Board has also received a 3 page document from a “concerned citizen” which consists of the following information:

1. Page 1-memo opposing the project and signed concerned citizen.
2. Page 2-portion of the published public hearing notice.
3. Page 3-portion of the fundraising informational sheet that the Applicant is advertising.

Jonathan Gewirtz questioned if any memos of support were received?

Chairman Weinberger answered nothing to date.

Mr. Silberberg stated that the committee members felt that they needed a mikvah for Friday night use. Mr. Silberberg stated that there is a large mikvah located in a neighboring village but too far to walk to on a Friday night or on the holidays. Mr. Silberberg explained that a mikvah is a ritual bath house used to purify women. It is estimated that approximately 3-6 women only will use the mikvah each Friday. The mikvah will be used approximately two hours a week in total and otherwise is closed except for maintenance. Mr. Silberberg provided to the Board the following letters of support listed by address:

1. 2 Power Horn Drive
2. 1 Baker Lane
3. 23 Lime Kiln Road
4. 7 Astor Place
5. 20 Dike Drive
6. 3 Steinway Court
7. 10 Roble Road
8. 2 Stag Court
9. 14 Roven Court
10. 11 Dike Drive
11. 49 Tranquility Road
12. 6 Windward Lane
13. 35 Astor Place
14. 35 Astor Place
15. 6 Dike Drive
16. 41 Glenbrook Road
17. 31 Power Horn Drive
18. 259 Grandview Ave

Jan Hilgeman stated that the Applicant should provide a copy of the vicinity map and show each location of the letters of support so the Board can visually see their location in proximity to the project.

Mr. Silberberg stated that the Rockland County Highway letter dated 5/20/15 states that there are no impacts and Applicant will get a permit as requested. Mr. Silberberg stated that the Rockland County Drainage memo states that the project is outside their jurisdiction.

Chairman Weinberger questioned if the Applicant has planned for storm water and ensured that there is no run-off.

Mr. Silberberg answered yes a drainage plan was prepared and reviewed by the Village Engineer.

Chairman Weinberger requested the Clerk to obtain the sign off letter from the Village Engineer in reference to the proposed drainage.

Mr. Silberberg made the following comments in reference to the County Planning GML dated 5/11/15:

1. Comment #1-Applicant will obtain a permit from the RC Highway.
2. Comment #2-Applicant agrees to all the comments from the RC Health Department memo dated 4/15/15.
  - a. Chairman Weinberger requested the Clerk to obtain a copy of the RC Health Department memo dated 4/15/15 from the Planning Board Clerk.
3. Comment #3-Mr. Silberberg stated that this is a standard comment from the County Planning. Mr. Silberberg stated that this is not a new congregation, there is no traffic, and the mikvah will be utilized 2 hours a week which is substantially less usage than a one family dwelling. Mr. Silberberg stated that there is only one other mikvah in Wesley Hills and that has been in existence for ten years. This is the only mikvah that has been approved.

Jan Hilgeman questioned why is the use only on Friday night?

Jonathan Gewirtz stated that because the women cannot drive on Friday night.

Jan Hilgeman questioned what will prevent the Applicant from using the facility on a Tuesday night?

Mr. Silberberg answered that the rabbinical board does not allow it to be opened when they can drive to the other one located on Viola Road which is 100 times larger than this proposed project. The Board does not allow it to be open other than Friday nights.

4. Comment #4 will be addressed by Mr. Brand.
5. Comment #5-Applicant will comply with all the applicable NYS Building & Fire Codes. Mr. Silberberg stated that when a building application is submitted with the required plans it is reviewed by the Building Department for code compliance.
6. Comment #6-Mr. Silberberg stated that there is no response required as this is not a neighborhood gathering place; it is a special use for two hours a week for 3-6 people. Mr. Silberberg added that the Village code does not include the use of a mikvah.

7. Comment #7-will be addressed by Mr. Brand.
8. Comment #8-will correct the typo.

Mr. Brand stated that the Applicant is requesting three variances.

Chairman Weinberger questioned what are the corporation names of the congregation and the mikvah?

Mr. Brand answered Tiferes Yisrael and Community Mikvah of Wilder. Mr. Brand stated that 6-7 shuls came together and created the mikvah corporation for the purpose of funding this project. Mr. Brand stated that Tiferes Yisrael owns the property and will continue to own the property. Mr. Brand continued and stated that the Applicant is present for the following variances:

1. Additional 300 sf above the maximum allowable size for an accessory building.
2. Increase front yard impervious coverage
3. Increase total impervious surface area.

Doris Ulman stated that the public hearing was not advertised for three variances; it was advertised for just the impervious area variances. Ms. Ulman stated that the application will need to be re-advertised.

Mr. Brand further explained to the Board and the public that increase in the impervious surface area is for the walkway on site. Mr. Brand further explained to the Board the time that has been put into designing the mikvah and also stated that the congregation has already downsized the size of the mikvah and they feel that the proposed size of 24x50 will meet their needs now and in the future. Mr. Brand presented to the Board and public the site plan dated 2/23/15 last revised 3/30/15 prepared by Paul Gdanski Engineer.

Jonathan Gewirtz questioned why the Applicant is increasing the size of the parking area?

Mr. Brand answered that the congregation is increasing the parking area by 9 parking spaces for their services and the north part of the property is for the mikvah.

Jonathan Gewirtz questioned if you didn't add the parking area what would your impervious surface area number be?

Mr. Brand stated that the increase in the parking is to assist with getting the cars off the roadway which will make the neighbors very happy. Mr. Brand stated that the imperious surface variances are needed for the walkway as well. The number is reduced if we didn't build the parking area however a variance would still be needed.

Doris Ulman stated that she agrees that getting the cars off the roadway is very important as neighbors were concerned with parking on the street when the house of worship was originally constructed.

Mr. Brand added that the plan includes two additional drains for the new parking area.

Chairman Weinberger stated that he agrees with the Attorney in reference to the re-advertising of the public notice.

Mr. Brand presented to the Board and public the architectural plan dated 2/5/15 prepared by HL Fisher.

Chairman Weinberger requested the Applicant to submit copies of the architectural plans for the Board's review.

Jan Hilgeman questioned if the site will have a generator?

Mr. Brand answered yes.

Mr. Brand noted for the record that the ZBA has previously approved a mikvah on Charlotte Drive for impervious surface area.

Jonathan Gewirtz read into the record the memo from the "concerned citizen".

Mr. Brand responded that the project cannot move to another location as the owner of 62 Lime Kiln Road has plans for his own property.

Chairman Weinberger asked if anyone from the public wished to speak.

No one wished to speak.

Chairman Weinberger. Members and the Applicant scheduled a site visit for Sunday, June 14, 2015 at 9 a.m. The members will meet at Village Hall and travel to the site together.

Chairman Weinberger made a motion to continue the public hearing to June 16 and require the Applicant to re-notify property owners and we will re-advertise the public notice and include all the required variances, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

### **New Business**

Clerk informed the members that she will send each member an email of their requirements for certification and training hours.

At 9:50 p.m. Jan Hilgeman made a motion to adjourn, seconded by Felicia Hirshfeld. Upon vote, this motion carried unanimously.

Respectfully Submitted,  
Camille Guido-Downey