

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, November 18, 2015**

MEMBERS PRESENT:

Richard Weinberger, Chairman
Felicia Hirshfeld
Carole Anderson
Jan Hilgeman
Dennis Dale, Ad Hoc

MEMBERS ABSENT:

Jonathan Gewirtz

OTHERS PRESENT:

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

Chairman Weinberger called the meeting to order at 8:10 p.m.

Item #3

Adoption of Minutes- June 18, 2014

Carole Anderson made a motion to approve the Zoning Board of Appeals Minutes of June 18, 2014, seconded by Jan Hilgeman. Upon vote, this motion carried 3-0-2 (Felicia Hirshfeld & Dennis Dale abstained because they were not present at the June 18, 2014 meeting).

Adoption of Minutes-October 21, 2015

Felicia Hirshfeld made a motion to approve the Zoning Board of Appeals Minutes of October 21, 2015, seconded by Carole Anderson. Upon vote, this motion carried 3-0-2 (Jan Hilgeman and Dennis Dale abstained as Hilgeman was not present at the October 21, 2015 meeting and Dale was not yet appointed to the Board).

Item #4

Naftali Klein

Continuation of a 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.

Chairman Weinberger stated that the Applicant's Attorney has submitted a letter dated 11/16/15 requesting an adjournment. Chairman Weinberger read the letter into the record.

Jan Hilgeman made a motion to continue the public hearing to the December 16, 2015 meeting at 8pm, seconded by Felicia Hirshfeld. Upon vote, this motion carried unanimously.

Item #5
Ari Kluger

Continuation of a Public Hearing on the application submitted by Ari Kluger for a variance from the provisions of Section 230-34 subdivision B(1) of the Code of the Village of Wesley Hills, to permit the maintenance and use of a driveway to a single family residence having a gradient of 14.3% instead of the maximum permitted of 12%.

The subject premises are situated on the north side of Tammy Road approximately 1,500 feet from the intersection with Skylark Drive, known as 23 Tammy Road, designed on the Tax Map as Section 41.16 Block 1 Lot 37, in an R-35 Zoning District.

Ari Kluger, 23 Tammy Road was present and was affirmed. Mr. Kluger stated that his builder installed the driveway incorrectly and there is a small deviation not visible to his contractor by a visual inspection and he is present to ask for a variance. Mr. Kluger stated that there are other driveways in the area that are similar and one has recently received a variance from this Board for a driveway slope. Mr. Kluger stated that the variance is not out of character for the neighborhood. The driveway is very long and could not be made longer to decrease the gradient per coverage.

Chairman Weinberger stated for the record that there was a site visit on November 1, 2015 and the members that were present were able to see the character of the neighborhood and see the driveway slope.

No members of the public wished to speak on this application.

At 8:17 pm Felicia Hirshfeld made a motion to close the public hearing, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

Chairman Weinberger stated that the proposed driveway is not inconsistent with the neighbor's driveway and there is sufficient landscaping on the property.

Felicia Hirshfeld made a motion to approve the Application of Ari Kluger for a variance from the provisions of Section 230-34 subdivision B (1) of the Code of the Village of Wesley Hills, to permit the maintenance and use of a driveway to a single family residence having a gradient of 14.3% instead of the maximum permitted of 12% based on the following reasons:

1. The proposed driveway is consistent with the other driveways in the area
2. Zoning Board approved a variance for a driveway slope in the neighborhood which was greater than the proposed variance.

Seconded by Carole Anderson. Upon vote, this motion carried unanimously.

**In the Matter of the Application of
Ari Kluger
Premises situated on the North side of Tammy Road,
Approximately 1,500 feet from the intersection with Skylark Drive
Known as 23 Tammy Road
In the Village of Wesley Hills
Section 41.16, Block 1, Lot 37 – R-35 Zone**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills for a variance from the provisions of Section 230-34, subdivision B (1) of the Code of the Village of Wesley Hills to permit the maintenance and use of a driveway to a single family residence having gradient of 14.3% instead of the permitted maximum of 12%, and

WHEREAS, after due notice a public hearing was held by the Board of Appeals on October 21, 2015, which hearing continued on November 18, 2015, and

WHEREAS, the applicant appeared in person and testified as follows:

That construction was recently completed on his home but the driveway was built with a gradient that was slightly too steep;

That this was an error by the contractor;

That the Village Engineer inspected and provided him with a memorandum informing him of the error;

That the deviation is small and not noticeable;

That the driveway is very long and could not be lengthened to lessen the deviations;

That there are other driveways in the area with similar slopes, one of which, with a bigger deviation, recently received a variance from this Board, and

WHEREAS, some of the Board Members made a site visit on November 1, 2015 and were able to observe the slope, other driveways in the neighborhood and the character of the neighborhood; and

WHEREAS, the application submitted by the Applicant states that the variance is permit a valid Certificate of Occupancy for a single family home with a driveway having a gradient of 14.3% instead of the permitted maximum of 12%; and

WHEREAS, the narrative submitted with the application states that initially approved site plan showed a driveway at the permitted grade but a contractor miscalculated caused the grading of the home to be “done in such a way that the grade of the driveway is slightly steeper

than allowed”, that the variance requested to resolve this problem is relatively minor since it is less than 20% that “other properties in the immediate neighborhood have ...steeper grades for their driveways so this is not out of character for the area”, and

WHEREAS, no one appeared in opposition,

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of appeals hereby determines that this application is a Type II action and no further action under SEQRA is required, and be it further

RESOLVED, that the Zoning Board of Appeals hereby grants the application of Ari Kluger for variance from the provisions of Section 230-34, subdivision B(1) of the Code of the Village of Wesley Hills to permit the maintenance of use of a driveway to a single family residence having gradient of 14.3% instead of the permitted maximum of 12% premises situated on the North side of Tammy Road, approximately 1,500 feet from the intersection with Skylark Drive, known as 23 Tammy Road in the Village of Wesley Hills designated on the Town of Ramapo Tax Map as Section 41.16, Block 1, Lot 37 in an R-35 Zone, and be it further

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

1. That there will be no change in the character of the neighborhood nor detriment to nearby properties, the neighborhood, the community or adverse effect or impact on any physical or environmental conditions by the granting of the variance because the driveway gradient is not substantial deviation from the requirement and is in character with the neighborhood, the Zoning Board approved a more substantial driveway gradient variance in the neighborhood, the deviation from the requirement is not clearly visible, the deviation does not affect the environment and no neighbors objected;
2. The variance is not substantial in that it is a 2.3% difference over the entire length of the driveway;
3. The only alternatives to a variance would be either to demolish the existing driveway and reconstruct it or lengthen the driveway the latter of which would likely have a greater impact on the neighborhood and the former would be a substantial cost and disruption to the applicant;
4. That taking these factors into account the benefit to the application outweighs any detriment to the health, safety and welfare of the neighborhood or community.

Item #6
Seth and Marla Levin

Continuation of a Public Hearing on the application submitted by Seth and Marla Levin for variances from the provisions of §230 Attachment 1, Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an addition to a single family residence having 10.2 feet less than the minimum required side yard of 30 foot and 14.4 feet less than the required minimum total side yard of 75 feet.

The subject premises are situated on the south side of Ari Drive approximately 75 feet from the intersection with Roble Road, known as 6 Ari Drive, designated on the Tax Map as Section 32.18, Block 2 Lot 25, in an R-50 Zoning District.

Todd Rosenblum, Architect representing the Applicants was present and affirmed. Mr. Rosenblum stated that there was a site visit on November 1, 2015 which allowed the Board Members to view the property and see the property grade to understand why the variance is being requested. Mr. Rosenblum stated that the Applicant is seeking the following variances:

Variance	Requirement	Provided
Side Yard	30'	19'.8"
Total Side Yard	75'	60'.6"

Mr. Rosenblum stated that the garage which is one story causes the need for both variances. There is a lot of grading on the neighboring property and that home is significantly higher so there is no visual impact issue. Mr. Rosenblum noted that there is a large amount of screening that is provided to the lot line. Mr. Rosenblum further added that the addition of the garage could not be located in another area on the property other than the side as there is a large hill in the back yard. The project is not too intense or too much coverage for this site. The existing grade causes the issues. Mr. Rosenblum demonstrated on the vicinity map all the neighbors that have provided letters of support for this Application.

Clerk noted for the record that those letters were read into the record last month.

Dennis Dale questioned if the garage will be used for an antique car and if that car is registered?

Mr. Levin answered yes it is for an antique car and the car is registered.

No one from the public wished to speak on this application.

At 8:25 pm Jan Hilgeman made a motion to close the public hearing, seconded by Felicia Hirshfeld. Upon vote, this motion carried unanimously.

Felicia Hirshfeld made a motion to approve the application submitted by Seth and Marla Levin for variances from the provisions of §230 Attachment 1, Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an addition to a single family residence having 10.2 feet less than the minimum required side yard of 30 feet and 14.4 feet than the required minimum total side yard of 75 feet based on the following reasons:

1. At the site visit, she observed that the house located to the east is much higher than the Levin's residence which alleviates the visual impact to that house.
2. Sufficient landscape screening is provided to each lot line.

3. The addition of the garage could not be located in another area on the property due to the large hill in the back.
4. Support letters from the neighbors were received which showed that they did not consider this to negatively impact them.

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

**In the Matter of the Application of
Seth & Maria Levin by Todd Rosenblum, Architect
Premises situated on the South side of Ari Drive,
Approximately 75 feet from the intersection with Roble Road
Known as 6 Ari Drive
In the Village of Wesley Hills
Section, 32.18, Block 2, Lot 25 – R-50 Zone**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills for a variance from the provisions of Section 230, Attachment 1, the Table of Dimensional Requirements, R-50 Zoning District, of the Code of the Village of Wesley Hills to permit the construction, maintenance and use of an addition to a single family residence having 10.2 feet less than the required minimum side yard of 30 feet because only 19.8 feet is provided and 14.4 feet less than the required minimum total side yard of 75 feet because only 60.6 feet is provided; and

WHEREAS, after due notice a public hearing was held by the Board of Appeals on October 21, 2015, which hearing was continued on November 18, 2015,

WHEREAS, the applicant Seth Levin appeared in person and by his architect Todd Rosenblum both of whom testified as follows:

That the applicant is proposing a three part addition to his existing home, one part of which will be a new one story garage because the existing garage is being used for living space;

That the proposed garage will be used for an antique car which is registered;

That the topographical conditions of the property necessitate the placement of the proposed garage on the side of the house and necessitate these variances;

That a large hill in the back yard prevents the location of the garage in the back;

That the placement of the garage on the side of the house is not possible within the side yard requirements and, due to the topography, the garage cannot be placed in the back while maintaining a back yard because there is a large hill in the back yard;

That the proposed garage will be poetically retaining since it will be built into the hill;

That there is a substantial amount of screening provided to the lot line which will minimize any view of the addition;

That the remainder of the proposed addition complies with the law and the lot coverage is well below the requirement;

That the proposed addition is not too intense for the site;

That he received four letters of support from surrounding properties, including the one that will be closest to the garage and another abutting the property that is on a much higher elevation and so will not be impacted;

That one property he did not receive a letter from is unoccupied and the owner of which did not speak or write in opposition; and

WHEREAS, some of the board members made a site visit on November 1, 2015 and were able to observe the grade to see why the variance is being requested and to observe the placement of the neighboring houses and the character of the neighborhood, and

WHEREAS, the application with narrative submitted by the applicant states that i) the variance is permit to construction of a one and half story garage addition on the left side of an existing two story single family home, ii) the garage is part of a larger addition intended to make the existing residence suitable for the entire Levin family, the existing garage is used as a guest bedroom and bathroom, a Passover Kitchen and to enlarge the existing dining room so the garage addition is need to be a garage, the shape and width of the lot and the physical features of the property, specifically the grading, make it impossible to construct the garage without these variances, the applicant tried to design the addition without variances and when this was not possible to minimize the variances needed, the 19.8 foot side yard setback and 60.6 foot total side yard are not atypical for other undersized Village properties, this lot is undersized being only 40,114 square feet rather than the required 50,000, the high elevation of the property to the east will minimize any impact from the garage, the property to the west is at a lower elevation than the subject property and there is substantial screening between the properties; and

WHEREAS, no one appeared in opposition and four properties in the neighborhood submitted letters in support,

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals hereby determines that this application is a type II action and no further action under SEQRA is required, and be it further

RESOLVED, that the Zoning Board of Appeals hereby grants the application of Seth & Marla Levin for a variance from the provisions of Section 230, Attachment 1, the Table of Dimensional Requirements, R-50 Zoning District, of the Code of the Village of Wesley Hills to permit the construction, maintenance and use of an addition to a single family residence having 10.2 feet less than the required minimum side yard of 30 feet because only 19.8 feet is provided and 14.4 feet less than the required Minimum side yard of 75 feet because only 60.6 feet is

provided at premises situated on the South side of Ari Drive, approximately 75 feet from the intersection with Roble Road known as 6 Ari Drive in the Village of Wesley Hills designated on the Town of Ramapo Tax Map as Section 32.18, Block 2, Lot 25 in an R-50 Zone, and be it further

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

1. That there will be no major change in the character of the neighborhood nor substantial detriment to nearby properties, the neighborhood, the community or adverse effect or impact on any physical or environmental conditions by the granting of the variance because, due to the elevations of the surrounding properties, the addition will not have a substantial visual impact on the neighboring properties and sufficient screening is provided, the neighbors who are most affected submitted letters in support and no neighbors objected;
2. There are no alternatives to variances if a garage is to be constructed due to the topography of the lot and the garage cannot be located in a place that will not require variances;
3. Although the difficulty is self created since the applicant chose to use the existing garage as living space, this factor is not dispositive;
4. That take these factors into account the benefit to the applicant outweighs any detriment to the health, safety and welfare of the neighborhood or community.

Item #7
Ahavat Yisrael

Public Hearing on the application submitted by Ahavat Yisrael on referral from the Planning Board of the Village of Wesley Hills for variances from the provisions of Section 230-17 of the Code of the Village of Wesley Hills to permit the construction, maintenance and use of a neighborhood gathering having 9 feet less than the required front yard and having a front yard impervious surface ratio of 0.48 instead of the maximum permitted of 0.20.

The subject premises are situated on the north side of East Willow Tree Road, approximately 400 feet east of Marisa Drive, known as 126 East Willow Tree Road, designed on the Tax Map as Section 41.08 Block 1 Lot 47, in an R-35 Zoning District.

Todd Rosenblum, Architect was present and affirmed. Mr. Rosenblum stated that several years ago Ahavat Yisrael received a special permit and site plan approval for a neighborhood gathering and a special permit for increased impervious surface for their property located at 126 E Willow Tree Road. Mr. Rosenblum stated that the proposed project was never constructed due to finances and the Applicant has returned to the Planning Board for a much smaller project. Mr. Rosenblum stated that the synagogue has decided to sell the rear half of their property to a developer who will create a 5 lot subdivision called North Wesley Hills Estates. The subdivision will consist of three new homes, existing synagogue and existing home located at 132 E Willow

Tree Road. The Planning Board has referred this Application to the Zoning Board for consideration. Mr. Rosenblum stated that the Planning Board has requested that the Applicant provide 10 feet in the front yard of 126 E Willow Tree Road for road widening and the new sidewalk installation because East Willow Tree is very narrow. The front yard requirement is 50' and the Applicant is willing to provide the 10' to the Village however that 10' reduces the front yard from 51' to 41' which requires a variance. Mr. Rosenblum stated that this is not a self created hardship. Mr. Rosenblum stated that the second variance is for front yard impervious surface area. The front yard impervious surface area requirement is .20 and the Applicant is proposing .48 for the following reasons:

1. Accommodate the driveway width requested by the Fire Inspector for a fire truck access. The requested width of the driveway is 24' which is 4' larger than the total width of E Willow Tree Road and creates more impervious surface, a fire lane is necessary for the project to exist.
2. The Planning Board requested a loading and a drop off zone for the disabled and elderly due to the elevation of the property. The drop off zone will add an extra 10 feet increasing the impervious surface.
3. The Planning Board requested a wheelchair accessible ramp which is required to provide the drop off zone will add access up to the 1st floor elevation of the existing structure and proposed addition.

Mr. Rosenblum stated that the Village Engineer has reviewed the drainage plan as the site is required to meet the zero net run off impact requirements. The Village Engineer has given her permission for the proposal drainage system and the system requires the water to be stored onsite in underground tanks in the parking area. Mr. Rosenblum stated that the Applicant is proposing to install grass crete pavers to further reduce the impervious surface ratio. The Planning Board has also requested that the parking area be built in phases, initially the asphalt area and the remaining parking areas will be in reserve if there is a future need for those spaces.

Jan Hilgeman questioned why there is no landscaping proposed in the rear of the parking area?

Todd Rosenblum answered that there is no requirement for landscaping; however the Planning Board has only seen this Application informally and the 1st public hearing is scheduled for December 2nd. Notices were just mailed for the 1st public hearing on the project. Mr. Rosenblum stated that a drainage report has been prepared, reviewed and approved by the Village Engineer

Chairman Weinberger requested that the Applicant modify their narrative to include the Planning Board's recommendations.

Steve Abrams, 3 Charlotte Drive was affirmed. Mr. Abrams stated that his property is located downhill from the proposed project and he is concerned in reference to the drainage. Mr. Abrams stated that he is unaware of a Planning Board application as he has not received any notices.

Chairman Weinberger requested that the homeowner speak with Mr. Rosenblum to discuss his concerns in reference to drainage.

Jeff Kaminetzky, 8 Marisa Drive was present and affirmed. Mr. Kaminetzky questioned how the proposed variances would affect the proposed subdivision and his property. Mr. Kaminetzky stated that he is concerned with the lot line layout and has had conversations with the Builder when the Applicant was performing test holes as he feels that those test holes are on his property and not the proposed roadway. Mr. Kaminetzky stated that he feels that the surveys are incorrect. He is also concerned with the old growth forest in the back.

Chairman Weinberger stated that the resident should address his concerns with Mr. Rosenblum and Mr. Kaminetzky should provide his concerns with appropriate back up documentation to the Village.

Jan Hilgeman stated that Mr. Kaminetzky should hire a surveyor to confirm his discrepancies with the proposed project.

Todd Rosenblum stated that he has had conversations with the Applicant's Surveyor, Sparaco and he has requested that Sparaco go out and mark out where the roadway will be located before December 2nd. Mr. Rosenblum stated that for the record the proposed subdivision does not require any variances, only the synagogue needs them.

Chairman Weinberger, Board Members and the Applicant decided that a site visit will take place on December 13, 2015 at 9am.

Felicia Hirshfeld made a motion to continue the public hearing to the December 16, 2015 meeting at 8pm, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

At 9:15 pm Dennis Dale made a motion to adjourn, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully Submitted,

Camille Guido-Downey