

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, May 15, 2019**

MEMBERS PRESENT:

Richard Weinberger, Chairman
Jonathan Gewirtz
Jan Hilgeman
Carole Anderson
Mordechai Schwab, Ad Hoc
Randi Marlin, Ad Hoc

MEMBERS ABSENT:

Dennis Dale

OTHERS PRESENT:

Doris Ulman, Assistant Village Attorney
Camille Guido-Downey, Village Clerk
Sydney Aliseo, Deputy Village Clerk

Chairman Weinberger called the meeting to order at 8:12 p.m.

**Item #3- Congregation Anshei Chesed-Continued Public Hearing
62 Lime Kiln Road**

Chairman Weinberger stated that on Sunday, 5/12/19, several members visited the site.

Stanley Mayerfeld, Architect for the Applicant, provided a revised site plan dated 5/13/19 and a revised off street parking plan dated 5/15/19.

Mr. Mayerfeld stated that they have reduced the impervious surface by 300 square feet and has cleaned up the rear of the site as requested at the previous meeting.

Doris Ulman questioned what is the proposed use for the basement in the Synagogue?

Stanley Mayerfeld answered that it will not be used.

Mr. Mayerfeld stated that in the rear of the property the clearing will be done by hand and limited to brush as there is a 10 foot sewer easement in the back.

Mr. Mayerfeld added that the Applicant researched pervious pavers in certain areas of the property and due to the high water table that material will not function properly.

Mr. Mayerfeld explained that the Applicant is seeking permission for offsite parking. The property is located on a major road and the Applicant has a pathway to Dike Drive. All of the off-site parking are on Dike Drive so that there will be no parking on the major roadways nearby, such as Wilder or Lime Kiln.

Doris Ulman questioned if the variance to permit parking that is more than 100 yards is still being proposed?

Stanley Mayerfeld answered no, they have eliminated that variance.

Chairman Weinberger and Board Members were concerned with the offsite parking and the procedure to ensure that the property owners agree to the number of spots located at their homes.

Stanley Mayerfeld answered that the variance being requested from the ZBA is for a general approval for offsite parking, the Planning Board will review the locations and the number of parking spaces permitted.

Chairman Weinberger questioned if the specific locations should be a conditions of the ZBA approval?

Doris Ulman answered that it can be or, the ZBA can leave it to the Planning Board's special permit process.

Randi Marlin questioned if the ZBA should have copies of the agreements with the property owners to have a complete file.

Village Clerk obtained the Planning Board file and showed the Board Members copies of the letters from the home owners.

Jonathan Gewirtz stated that he understands that the variance for offsite parking is triggered by the property being located on a major road.

Stanley Mayerfeld agreed and stated that for pedestrian safety the offsite parking is justified.

Jan Hilgeman stated that she is concerned that if people move from the designated locations and a new owner does not agree to the number of parking spaces on their property what happens?

Stanley Mayerfeld answered that it is an annual requirement that the Village Clerk's office ensures that she receives signed letters and if a new/old home owner does not agree the special permit is then revoked.

Jan Hilgeman listed the following variances that the applicant is requesting:

- Section 230-14A for a use variance to permit more than one main building on a lot.
- Section 230-17 Attachment I Table of Dimensional Requirements to permit total side yard of 66 feet instead of 75 feet.
- Rear yard of 18.2 feet instead of 50 feet.
- Maximum building coverage of .20 instead of .15.
- Impervious surface ratio of .60 instead of .25.
- Front yard impervious surface ratio of .69 instead of .20.
- Provisions of Section 230-26G (1) (g) to permit parking spaces to be located off site.

Stanley Mayerfeld stated for the record that the Village Laws should be updated as the impervious surface requirements were designed for a residential lot. This application is for a Synagogue which has a greater need.

Mr. Mayerfeld stated that the parking lot was designed in the front yard as parking is allowed in the front yard and to have less of an impact on the neighbors.

Doris Ulman stated that she is concerned with the front yard landscaping that is very close to the snow storage area.

Stanley Mayerfeld stated that in his opinion there is enough of a buffer area and the landscaping will not be destroyed.

Chairman Weinberger stated that he is concerned with the Planning Board resolution dated 5/1/19 condition #3, which states that the ZBA will determine whether offsite spaces can be counted towards the parking requirement.

Doris Ulman answered that the ZBA could grant the variance for off street parking as it is a general approval and the Planning Board would determine approval of the addresses and the number of spaces required.

Chairman and Board Members requested copies of the following agency memos:

1. Rockland County Planning GML memo dated 2/21/19.
2. Rockland County Highway Department memo dated 1/24/19.
3. Rockland County Health Department memo dated 2/14/19.
4. Rockland County Sewer District memo #1 dated 2/8/19.
5. Rockland County Fire and Emergency Services memo dated 12/31/18.
6. Sparaco Engineering response memo to the Planning Board agency comments dated 4/17/19.

Chairman Weinberger requested a short adjournment to allow time for the Board Members to review the documents, Seconded by Jonathan Gewirtz. Upon vote this motion carried unanimously.

Item #4-Ephraim Jacobson-Continued Public Hearing 5 Jodi Court

Todd Rosenblum, Applicant's Architect, was present and stated that there was a site visit with the Board Members on Sunday, May 12, 2019. Mr. Rosenblum stated that the Applicant is seeking the following variances:

1. Front yard 42.2 feet at Amsterdam Ave instead of the minimum 50 feet.
2. Rear yard of 39.7 feet instead of the minimum 50 feet.

Mr. Rosenblum stated that the home is positioned on a 45° angle and only a small portion of the addition is located in the 50 foot front yard setback. Abutting neighbors and a home across the street have received similar variances for the front yard, and many lots in this area are undersized due to the average density. The rear yard variance is needed for the placement of the new deck. There is existing screening and a fence that shields the neighbors from any visual impacts.

Mr. Rosenblum provided the following letters of support:

1. Fisch-2 Jodi Court.
2. Eissenberge-2 Vanwinkle.
3. Koblisch-17 Amsterdam.
4. Mindick-16 Amsterdam.
5. Peikes-3 Jodi Court.
6. Schlisselfeld-11 Amsterdam.
7. Kram-15 Amsterdam.
8. Herskovich-4 Van Winkle.
9. Gewirtz-9 Amsterdam.
10. Schlisselfeld-19 Amsterdam.
11. Baldeinger-4 Jodi Court.

Jonathan Gewirtz stated the requested variances are not substantial and there is no neighbor that is impacted by the requested variances based upon the nature of how the house was constructed on the undersized lot.

No one from the public wished to speak.

Jonathan Gewirtz made a motion to close the Public Hearing, seconded by Jan Hilgeman. Upon vote this motion carried unanimously.

Jonathan Gewirtz stated that this property is an undersized lot as it was a part of an average density subdivision; if the lot was 35,000 square feet the requested variances would not be needed. The deck is not visible from the roadway or from the neighbor, as there is sufficient screening. There is no impact on any neighbors because of the placement of the home.

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Jan Hilgeman:

**In the Matter of the Application of
Ephraim Jacobson
Premises situated on the southeast
Corner of Amsterdam Avenue and
Jodi Court, known as 5 Jodi Court,
Designated on the Tax Map as Section
41.11 Block 1 Lot 50 in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Ephraim Jacobson for variances from the provisions of Section 230-17 Attachment I Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an addition and deck to a single family residence having a front yard of 42.2 feet at Amsterdam Avenue instead of the minimum required 50 feet and a rear yard of 39.7 feet instead of the minimum required 50 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on the 18th day of April, 2019, which hearing was continued on May 15, 2019, and

WHEREAS, the Applicant appeared by his Architect, who testified as follows:

This is an average density lot;

That the house is on a corner lot that is constructed at an angle so that the 42.2 foot front yard variance is only needed for a corner of the addition;

There are two additions and two decks; the rear yard variance is for the deck only;

Currently there is a fence and substantial landscaping in the rear so that the deck that needs the variance will be screened from the adjacent property; and

WHEREAS, no one appeared in opposition to the application and several neighbors submitted letters of support; and

WHEREAS, members of the Zoning Board of Appeals visited the site to view existing conditions;

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

RESOLVED, that the application submitted by Ephraim Jacobson for variances from the provisions of Section 230-17 Attachment I Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an addition and deck to a single family residence having a front yard of 42.2 feet instead of the minimum required 50 feet and rear yard of 39.7 feet instead of the minimum required 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 variances are not substantial in that there are only two requested and each is only 20% of the requirement;

2. That the variance for the addition is caused by the angle of the house which restricts the placement of the addition;
3. That the addition and the deck will not change the character of the neighborhood but is similar to other houses in the neighborhood;
4. That the benefit to the applicant by granting the variances is substantial whereas no evidence has been submitted of detriment to neighboring properties or the community.

Upon vote, this motion carried unanimously.

Item #3

Chairman Weinberger reopened the Public Hearing for Congregation Anshei Chesed and stated that based on the late information submitted to the Zoning Board, the Board would like to adjourn the application to June 13, 2019 at 8 pm, to allow time for the Members to review the information submitted.

Stanley Mayerfeld stated that he feels the Applicant's Engineer has already reviewed and commented upon the agency memos that have been submitted along with the Applicant receiving a negative declaration from the Planning Board and this application should move forward.

Mordechai Schwab stated that for the record he is President of Tiferes Israel across the street and he feels that he can be impartial in reference to the Application and if at any point he feels that he cannot be impartial or fair, he will recuse himself.

Stanley Mayerfeld stated that there is a lot of overlay between the Planning Board and the Zoning Board in reference to the agency memos.

Doris Ulman stated that she agreed with part of Mr. Mayerfeld's comment however the Zoning Board of Appeals agency memos are not addressed in full in the Applicant's response letter to the Planning Board as some items were left out. The Applicant is also seeking an override from the County Planning GML letter and the Applicant has not provided the required legal explanation for the Board's consideration.

Ms. Ulman reminded the Applicant that they need complete responses for each item in each one of the letters from the agencies.

Jan Hilgeman stated that she feels that it is unfair of the Applicant to ask the Zoning Board to move ahead with an approval tonight as the required items have not been submitted. The Board deserves time to review the items submitted tonight.

Chairman Weinberger suggested that Ms. Ulman meet with the Applicant and his professionals to go over the proposed plan and ensure that the agency memos are addressed.

Jan Hilgeman made a motion to adjourn the Application of Anshei Chesed to the June 13, 2019 meeting at 8pm, seconded by Mordechai Schwab. Upon vote this motion carried unanimously.

Item #5

Approval of Minutes- April 3, 2019

Mordechai Schwab made a motion to approve the Zoning Board of Appeals minutes of April 3, 2019, seconded by Randi Marlin. Upon vote this motion carried unanimously.

Item #6

Approval of Minutes-April 17, 2019

Mordechai Schwab made a motion to approve the ZBA minutes of April 17, 2019, seconded by Carole Anderson.

Upon vote this motion carried 3-0-3 (Gewirtz, Hilgeman, and Marlin abstained).

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

Respectfully submitted,

Sydney Aliseo