

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, July 17, 2019**

MEMBERS PRESENT:

Richard Weinberger, Chairman
Jan Hilgeman
Carole Anderson
Dennis Dale

MEMBERS ABSENT:

Jonathan Gewirtz
Mordechai Schwab, Ad Hoc
Randi Marlin, Ad Hoc

OTHERS PRESENT:

Doris Ulman, Assistant Village Attorney
Sydney Aliseo, Deputy Village Clerk

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

**Item #3- Congregation Ahavas Yitzchok-Continued Public Hearing
73 Forshay Road**

Chairman Weinberger stated that a Site Visit was held on Sunday, 7/17/19.

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

Public Hearing on the application submitted by Congregation Ahivas Yitzchak for variances from the following provisions of the Zoning Law of the Village of Wesley Hills: Section 230-26(G)(1)(c) and 230-17 Attachment I Table of Dimensional Requirements to permit the maintenance and use of a room overhang having a front yard of 31.9 feet instead of minimum required of 50 feet and the construction of 58 onsite parking spaces having total impervious surface of .56 instead of the maximum permitted of .25.

Morton Silverberg ESQ., the Applicant's Attorney, stated that he and his wife are the nearest neighbor to the Congregation and are in support of the Application. Mr. Silverberg stated that due to the lack of parking spaces, Congregants have been parking unsafely at off site locations and the Applicant is proposing to increase the number of parking spots from 13 parking spaces to 58 parking spaces. Mr. Silverberg stated that a variance was granted in 1996 to approve a front setback of 34' but when the building was constructed it became 31.9 feet from the front property line to house the Torah, so to correct the existing condition, the Applicant is currently requesting a 31.9' front setback.

Rachel Barese, P.E., Civil Tec. Engineering, was present and was affirmed to tell the truth.

Rachel Barese, the Applicant's Architect, presented a revised site plan dated 1/30/19, last revised on 5/14/19. The revised plan is for a parking lot expansion. Ms. Barese stated that the Applicant

is not looking to expand the existing structure but to provide a safe parking lot for the members of the Congregation.

The following letters were read into the record:

1. Rockland County Planning GML review memo dated 6/11/19.
2. Rockland County Health Department review memo dated 6/6/19 and 5/19/19
3. Rockland County Sewer District review memo dated 5/21/19 and 7/18/19.
4. Rockland County Highway Department review memo dated 6/17/19 and 2/18/19..

Rachel Barese requested that the Board consider overriding item #6 on the County GML memo dated 6/11/19. Ms. Barese stated that the Rockland County Department of Planning wants to incorporate the use of pervious pavers to reduce the maximum impervious surface ratio variance. Rachel Barese explained that due to the high water table, the use of pervious pavers would not be feasible.

Doris questioned if the high water table runs through the entire property and if pervious pavers can be used in the front of the property?

Rachel Barese stated that a test was run in the rear of the property to determine if pervious pavers were feasible.

Mr. Silberberg explained that his property is adjacent to the Congregation and his property also has a high water table.

Rachel Barese requested the Board consider overriding item #7, which requests the parking lot have a two way traffic flow to provide better traffic circulation instead of the proposed one way traffic. Ms. Barese explained that the members of the Congregation are repeat visitors who know the traffic flow. Ms. Barese stated that the Village Engineer suggested signs be put in place to ensure safety.

Doris Ulman, Village Attorney, questioned if the Rockland County Highway Department was in favor of the one way flow of traffic?

Ms. Barese stated that the Congregation has received a clean letter from the Rockland County Highway Department in a memo dated 6/18/19.

Rachel Barese also requested the Board to consider overriding item #8 of the Rockland County Planning letter, which requests turnaround areas in the parking lot. Ms. Barese explained that the aisles are 24 feet wide which provide enough space for a car to back up. Ms. Barese explained that the Village Engineer and the Village Planner agreed that the 24 foot aisle is sufficient.

Chairman Weinberger stated a stop sign at the driveway must be a condition of the approval.

Rachel Barese stated that she will be in compliance and a stop sign will be included.

No one from the public wished to speak.

Chairman Weinberger made a motion to close the Public Hearing, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Jan Hilgeman made a motion to approve the following resolution subject to the following conditions, seconded by Carole Anderson:

In the Matter of the Application of
Congregation Ahavas Yitzchak
Premises situated on the west side of
Forshay Road at the intersection with
Parker Road, known as 73 Forshay Road,
Designated on the Tax Map as Section
41.18 Block 1 Lot 12, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Congregation Ahavas Yitzchak for variances from the provisions of Sections 230-26G(1)(c) and 230-17 Attachment Table of Dimensional Requirements to permit the construction, maintenance and use of a parking area for neighborhood gathering facility having total impervious surface ratio of .56 instead of the maximum permitted of .25 and to permit the maintenance and use of an overhang to a building having a front yard of 31.9 feet instead of the minimum required of 50 feet, and

WHEREAS, after due notice, a public hearing was held by the Zoning Board of Appeals on the 13th day of June 2019, which hearing was continued on the 17th day of July 2019, and

WHEREAS, the applicant appeared by its Engineer and its Attorney, who testified as follows:

That a variance was granted for the building when it was first constructed to permit it to be 34 feet from the front property line but when constructed, the overhang at the front of the building was constructed at 31.9 feet from the front property line so that the Torahs could be placed there and the variance now requested is for the existing condition;

That the variance for impervious surface is to permit on site parking for 58 vehicles which will alleviate the current safety hazard of people parking on Forshay road, a County road that is heavily travelled;

That the property has a very large vow of trees in the rear, most of which will remain so that it is anticipated that only one tree will have to be removed;

That the existing vegetation is sufficient to protect adjoining properties from headlights and other vehicle disturbances;

That it is not feasible to use pervious pavers because of the high water table and the drainage system has been approved by the Village Engineering Consultant;

That a two-way driveway will increase the impervious surface and has not been required by County Highway, the Village Engineering Consultant or the Village Planning Consultant;

That there is sufficient turn-around area since the parking area has been designed with 24 foot wide driving lanes; and

WHEREAS, no one appeared in opposition to the application,

NOW, THEREFOR, IT IS HEREBY DETERMINED that the proposed action is an unlisted action, that the Wesley Hills Planning Board is accepted as Lead Agency and that the Wesley Hills Planning Board has made a negative declaration with respect to this action, and be it further

RESOLVED, that the application submitted by Congregation Ahavas Yitzchak for variances from the provisions of Sections 230-26G(1)(c) and 230-17 Attachment 1 Table of Dimensional Requirements of the Code of the Village of Wesley Hills to permit the maintenance and use of a room overhang having a front yard of 31.9 feet instead of the minimum required of 50 feet and construction of 58 on-site parking spaces having total impervious surface of .56 instead of the maximum permitted of .25 are hereby granted, subject to the following conditions:

1. That the existing landscaping be maintained and replaces as needed to maintain the dense screening between the parking area and adjacent properties;
2. That applicant complies with the letters from Rockland County Highway dated June 17, 2019 and July 18, 2019; and June 25, 2018
3. That applicant complies with letter from Rockland County Sewer District No.1 dated May 21, 2019 and July 18, 2019;
4. That applicant complies with letter from the Town of Ramapo Department of Public Works dated May 16, 2019;
5. That applicant complies with letters from the Rockland County Department of Health Center for Environmental Health date May 16, 2019 and June 6, 2019;
6. That applicant complies with letter from Rockland County Department of Planning dated June 11, 2019 except that the Zoning Board of Appeals hereby overrides paragraphs 6,7 and 8 of said letter for the following reasons:
 - a. The Zoning Board of Appeals determines that pervious pavers are not feasible because of the high water table throughout the property and the fact that

pervious pavers are not usually desirable in parking areas because they tend to get filled in easily and require constant maintenance;

- b. The County Highway Department, the Wesley Hills Planning Consultant and Engineering Consultant have determined that two way traffic is not necessary;
 - c. The Wesley Hills Planning Consultant and Engineering Consultant have determined that a turn-around area is not required because there is sufficient room in the parking area for backing out of the parking spaces since the driveways are 24 feet wide;
7. That a stop sign be installed in accordance with the recommendation of County Highway;
 8. That applicant obtains site plan and special permit approval from the Wesley Hills Planning Board and complies with all conditions of said approvals; and be it further

RESOLVED, that the Zoning Board of Appeals hereby makes the following Findings of Fact:

1. That the Zoning Board of Appeals recognizes that the applicant is a house of worship and is entitled to “special status” in land use reviews as required by decisions of the New York State Court of Appeals;
2. That the installation of on-site parking addresses safety issues with people parking on Forshay Road, a heavily travelled County road;
3. That there is a large band of trees to the north and rear of the property that will not be disturbed by installation of the parking and that will shield adjoining properties from noise, fumes and headlights of the vehicles;
4. That the benefit to the applicant by granting the variances is great whereas there is no evidence of detriment to adjoining properties or to the neighborhood

Upon vote, this motion carries unanimously.

Item #4- Congregation Derech Emes-Public Hearing 34 Wilder Road

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

Public Hearing on the application submitted by Congregation Derech Emes for variances from the following provisions of the Zoning Law of the Village of Wesley Hills: Section 230-26G(1)(c) and 230-17 Attachment I Table of Dimensional Requirements of the Code of the Village of Wesley Hills to permit construction, maintenance and use of a neighborhood gathering

facility with related parking having a front yard impervious surface ratio of .43 instead of the maximum permitted of .20.

Yakov Mattel, appeared on behalf of the Applicant and stated that the application was seen by the Zoning Board of Appeals one year ago requesting 4 variances. Yakov Mattel stated that the Applicant is currently requesting a variance to allow two structures on the property to be used simultaneously and a variance to permit a front yard impervious surface ratio of .43 instead of the maximum permitted of .20. Mr. Mattel stated that the Applicant is proposing to build a new structure behind the existing structure, once the new structure is built the existing structure will then be removed.

Jan Hilgeman questioned the amount of parking spaces being provided?

Mr. Mattel stated that the Applicant is currently proposing 45 parking spaces on the side of the property.

Jan Hilgeman questioned if having two structures at the same time is a concern for the Building Department or for the Zoning Board of Appeals?

Doris Ulman answered that it is a decision the ZBA must make.

Doris Ulman stated that a condition must be in place to ensure the removal of the existing building. Ms. Ulman suggested that once the Certificate of Occupancy is issued for the new structure the Applicant will have three months to remove the existing building.

Board Members agreed.

The following letters were read into the record:

1. Maser letter dated 7/16/19.
2. Brooker Engineering memo dated 7/15/19.
3. Rockland County Sewer District 6/28/19.

Yakov Mattel stated that the use of pervious pavers cannot be used due to the high water table.

No one from the public wished to speak.

Mr. Mattel requested that the Board consider waiving the site visit as the Zoning Board of Appeals completed a site visit last year and the property has remained the same.

Chairman Weinberger read the following letters of support into the record:

1. 15 Dike Drive
2. 35 Wilder Road
3. 2 Roven Road
4. 41 Wilder Road

5. 16 Dike Drive
6. 5 Dike Drive
7. 6 Carter Lane
8. 29 Wilder Road

Mr. Mattel explained that Carter Lane is most affected by the Application and have shown their support.

Doris Ulman questioned if the square footage of the building is for the entire building or just the first floor?

Yakov Mattel stated that the square footage is only a footprint.

Mr. Mattel stated that Brooker Engineering reviewed the plans and had no further comments. Yakov Mattel stated that the Congregation has had no issues with the Village and willing to comply.

Chairman Weinberger stated that the letter from Maser Consulting P.A dated 7/16/19 stated the Applicant would comply with conditions put forward by the agency memos except for County Planning.

Chairman Weinberger questioned if the Applicant will comply with the conditions.

Mr. Mattel agreed to comply.

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

Dennis Dale made a motion to waive the site visit, seconded by Jan Hilgeman. Upon vote, this motion carried unanimously.

Jan Hilgeman made a motion to approve the following resolution, seconded by Dennis Dale:

In the Matter of the Application of
Congregation Derech Emes
Premises situated on the east side of Wilder
Road approximately 228 feet north of Carter
Lane, known as 34 Wilder Road, designated
On the Tax Map as Section 41.10 Block 2 Lot
3, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Congregation Derech Emes for variances from the provisions of Section 230-26G(1)(c), 230-17 Attachment 1 Table of Dimensional Requirements and Section 230-14A of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a neighborhood gathering facility with related parking having a front yard impervious surface of

.43 instead of the maximum permitted of .20 and to temporarily permit two main buildings on a lot instead of the maximum permitted of one main building, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on the 17th day of July, 2019, and

WHEREAS, the applicant appeared by its representative and testified as follows:

That variances were granted in August 2018 to permit a side yard of 20 feet instead of the minimum required of 25 feet, total impervious surface of .61 instead of the maximum permitted of .25, front yard impervious surface of .24 instead of the maximum permitted of .20 and to permit an accessory building to have a side yard of 3.6 feet instead of the minimum permitted of 8.3 feet;

That at that time the project consisted of a large addition to an existing building with related parking;

That the project has changed and applicant is now proposing to construct a new 4914 square foot building with 45 parking spaces and to continue to use the existing building until the new building has obtained a C.O. at which time the existing building and the shed will be demolished; the residential use will be discontinued;

That pervious pavers are not feasible on this lot because of the high water table and applicant has designed a drainage system that will hold water on site not only from applicants property but also from adjoining lots; that the system has been approved by the Village Engineering Consultant;

That applicant requests that the Zoning Board carry forward the variances previously granted for side yard and impervious surface and that the front yard impervious surface variance Previously granted be increased to .43 instead of .24;

That the reason the front yard impervious surface is increased is because a portion of the parking on the lot has been shifted from the north side of the property to the front yard, thereby reducing the impact to the neighbor on the north; and

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

NOW, THEREFORE, IT IS HEREBY DETERMINED that this is a coordinated review application pursuant to SEQRA, that the Zoning Board of Appeals accepts the Wesley Hills Planning Board as Lead Agency and accepts the Planning Board's determination that the proposed action will not have a significant adverse impact on the environment, and be it further

RESOLVED, that the application submitted by Congregation Derech Emes for variances from the provisions of Sections 230-26G(1)(c), 230-17 Attachment 1 Table of Dimensional Requirements and Section 230-14 of the Code of the Village of Wesley Hills to permit the

construction, maintenance and use of a 4914 square foot neighborhood gathering facility with 45 parking spaces having a side yard of .20 feet instead of the minimum required of 25 feet, impervious surface ratio of .60 instead of the maximum permitted of .25, front yard impervious surface ratio of .43 instead of the maximum permitted of .20 and to permit two main buildings on a lot is hereby granted, subject to the following conditions:

1. That the existing building shall be demolished within three months after issuance of a certificate of occupancy for the new building;
 2. That the applicant comply with the GML review from the Rockland County Department of Planning dated July 1, 2019 except that Paragraph 5 is hereby overridden for the reason that pervious pavers are not feasible on this lot because of the high water table and the Village Engineering Consultant has approved a drainage system for the lot that will keep all water on site.
 3. That applicant comply with the letter from Rockland County Center for Environmental Health dated July 5, 2019;
 4. That applicant comply with the letter form Rockland County Highway Department dated June 14, 2019;
 5. That applicant comply with the letter form the Rockland County Sewer District No.1 dated June 28, 2019;
 6. That applicant comply with the letter form Brooker Engineering dated July 15, 2019;
 7. That applicant comply with the letter form Maser Consulting dated July 16, 2019;
 8. That applicant obtain site plan and special permit approval from the Wesley Hills Planning Board; and be it further
- RESOLVED, that the Zoning Board of Appeals hereby makes the following Findings of

Fact:

1. That the Zoning Board of Appeals recognizes that the project is for a religious house of worship and that the project has "special status" as determined by the Court of Appeals of the State of New York;
2. That although the impervious surface ratios are substantial, by placing parking on-site, applicant is reducing safety hazards by prohibiting parking on Wilder Road, a regularly travelled County road;
3. That applicant has reduced the intensity of the use of the lot by eliminating the residential use of the property;

4. That there is no harm to the character of the neighborhood by permitting the existing building to remain in use until the new building is ready for occupancy by applicant since a three month period for demolition is not unreasonable;
5. That the benefit to the applicant by granting the variances is substantial whereas no one has identified any detriment to the neighborhood or to the community.

Upon vote, this motion carried unanimously.

Approval of Minutes-June 13, 2019

Dennis Dale made a motion to approve the ZBA minutes of June 13, 2019, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

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

Respectfully submitted,
Sydney Aliseo