

**Village of Wesley Hills  
Zoning Board of Appeals  
Village Hall  
Wednesday, December 16, 2020**

**MEMBERS PRESENT:**

Richard Weinberger, Chairman  
Carole Anderson  
Dennis Dale  
Jonathan Gewirtz  
Mordechai Schwab  
Randi Marlin, Ad Hoc

**MEMBERS ABSENT:**

Stefanie Collantes, Ad Hoc

**OTHERS PRESENT:**

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

Chairman Weinberger called the meeting to order at 8:05 p.m.

**Item #1- Continued Public Hearing - Barnett  
45 Wilder Road**

Chairman Weinberger stated that a site visit took place on 12/6/20.

Todd Rosenblum appeared before the Board and was affirmed to tell the truth.

Todd Rosenblum stated that at the last Zoning Board meeting he explained that there was an error when the final grading of the property was completed which caused the house to be considered 3 stories instead of the required maximum of 2.5 stories. Mr. Rosenblum stated that the third story is not visible from the street and was caused by a minor technicality. Mr. Rosenblum stated that there is a fully equipped residential sprinkler system.

Chairman Weinberger questioned if anyone from the public wished to speak? No one wished to speak.

Doris Ulman, the Village Attorney, stated that should the Board wish to approve the application, item #2 of the Rockland County Department of Planning letter dated 12/15/20 and items #1 and #2 of the Rockland County Highway Department letter dated 11/17/20 should be overridden as the Applicant has submitted evidence that they have submitted all revisions to the Rockland County Highway Department and have received approvals.

Randi Marlin stated that she knows the Applicant personally but can remain fair and impartial in regards to the application.

Randi Marlin made a motion to close the public hearing, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Carole Anderson made a motion to approve the following resolution, seconded by Randi Marlin:

In the Matter of the Application of  
Ayala and Gary Barnett  
Premises situated on the west side of Wilder Road,  
Approximately 700 feet south of Lime Kiln Road,  
Known as 45 Wilder Road, designated on the Tax Map  
As Section 41.06 Block 1 Lot 7, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Ayala and Gary Barnett for a variance from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the maintenance and use of a single family residence having a height of 3 stories instead of the maximum permitted of 2 ½ stories, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning board of Appeals on November 18, 2020, which hearing was continued on December 16, 2020, and

WHEREAS, the applicants appeared in person and by their architect, who testified as follows:

That the landscaper made a mistake in grading which caused the basement to exceed the height above grade which then met the Village's definition of a story, so that the house has three stories;

That the excess height is only visible from the rear of the property and does not adversely affect the character of the neighborhood nor does the house look massive or out of character;

That the grading can be changed to cover the basement area but it would require moving the air conditioning equipment, pool equipment and other structures that were installed before the height problem was discovered;

That the applicant has installed a residential sprinkler system as required by the State Building Code for three story residences;

That the height of the building does not exceed 25 feet; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the height of the building and the third story; and

WHEREAS, no one appeared in opposition to the application but one neighbor appeared and stated that the applicant's outdoor light shines into her house; and

WHEREAS, the applicant submitted a copy of the permit he received from the County Highway Department dated May 28, 2020, which approved the site plan that is being considered by the Zoning Board in this application as evidence that the letter received from the County Highway Department is incorrect;

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 Ayala and Gary Barnett for a variance from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the maintenance and use of a single family residence having three stories instead of the maximum permitted of 2 ½ stories if hereby approved, subject to the following conditions:

1. Rockland County Planning Department GML review letter dated December 15, 2020, except that the Zoning Board overrides Recommendation No. 2 for the reason that the applicant has submitted evidence that the site plan that is the subject of this application was submitted to and approved by the Rockland County Highway Department so that the comment by the Highway Department that it has not reviewed the site plan is incorrect;
2. Compliance with the Rockland County Sewer District No. 1 letter dated November 17, 2020; and be it further

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

1. That the granting of the variance does not change the actual height of the house, which is less than the maximum permitted of 25 feet; so that the variance is not substantial;
2. That there is no feasible alternative to granting the variance since the change of grade would require the moving of air conditioning equipment, pool equipment and other structures, which would be very expensive;
3. That the granting of the variance does not change the character of the neighborhood nor create adverse ecological or environmental impacts;
4. That the benefit to the applicant by granting the variance is substantial whereas no detriment to neighboring properties or to the community has been identified.

Upon vote, this motion carried unanimously.

**Item #2-Public Hearing – Levy  
24 Powder Horn Drive**

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

Public Hearing on the application submitted by Susan Levy for variances from the provisions of Section 230-17 Attachment 1 of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana having a rear yard of 28 feet instead of the minimum required of 50 feet.

The subject premises are situated on the west side of Powder Horn Drive approximately 400 feet north of Ari Drive, known as 24 Powder Horn Drive, designated on the Tax Map as Section 32.19, Block 1 Lot 42, in an R-50 Zoning District.

Susan Levy, the Applicant, appeared before the Board and was affirmed to tell the truth.

Susan Levy stated that she constructed a pool on her property during the summer but is now looking to construct a cabana which requires a rear yard variance. Ms. Levy stated that due to the slope of the rear of the property retaining walls were installed as well.

Jonathan Gewirtz questioned what is being proposed on the inside of the cabana? Susan Levy stated that there will be a bathroom, laundry room, changing room, a sink and a fridge. Ms. Levy stated that there will not be a full kitchen.

Jonathan Gewirtz stated that he took the initiative to complete a site visit in the morning before the meeting and submitted an email with pictures to the Zoning Board members with his findings. Mr. Gewirtz stated that the rear of the property is steep with woods separating the neighboring lot behind the property. Mr. Gewirtz stated that the proposed cabana is not visible from the street as the property rises and then slopes downward behind the house. Mr. Gewirtz stated that the property is unique, and the granting of the variances will have no impact on the neighborhood.

Chairman Weinberger questioned if anyone from the public wished to speak? No one wished to speak.

Jonathan Gewirtz made a motion to close the public hearing, seconded by Dennis Dale. Upon vote, this motion carried.

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Mordechai Schwab:

In the Matter of the Application of  
Susan Levy

Premises situated on the west side of Powder Horn  
Drive approximately 400 feet north of Ari Drive, known  
As 24 Powder Horn Drive, designated on the Tax Map as  
Section 32.19 Block 1 Lot 42, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Susan Levy for a variance from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana having a rear yard of 28 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 December 16, 2020, and

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

That applicant constructed a pool which did not need variances and now wants to install a foundation for a cabana that is 28 feet from the rear property line;

That the rear of the property slopes downward and the cabana is not visible from the property to the rear of the applicant's property;

That the cabana is centered along the pool patio which is both practical and aesthetically pleasing;

That the retaining walls and a patio will also be constructed; and

WHEREAS, one member of the Zoning Board of Appeals visited the site and distributed a report to other members of the Board; and

WHEREAS, no one appeared in opposition to the application,

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals waives the site visit for this application because one member visited the site and has submitted a detailed report relating to conditions of the subject property, and be it further

RESOLVED, 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 Susan Levy for a variance from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana having a rear yard of 28 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 it appears that no adverse ecological or environmental impacts will result from the granting of the variance;

2. That there will be no change in the character of the neighborhood resulting from the granting of the variance;
3. That the benefit to the applicant by granting the variance is substantial whereas no detriment to neighboring properties or to the neighborhood has been identified.

Upon vote, this motion carried unanimously.

**Item #3- Resolution regards Rockland County Department of Planning letter  
10 Moccasin Place**

Doris Ulman stated that the Applicant for 10 Moccasin Place appeared before the Board on 11/18/20 and received the requested variances. Ms. Ulman stated that the application was sent out for GML review due to the location of the property and the Rockland County Department of Planning had 30 days to respond to the request. Doris Ulman stated that the letter from the Rockland County Department of Planning was received after the 30 day limit due to the delayed mail. Therefore, Ms. Ulman suggested that the following resolution be adopted in regards to the newly received letter.

Mordechai Schwab made a motion to approve the following resolution, seconded by Jonathan Gewirtz:

WHEREAS, on November 18, 2020, the Zoning Board of Appeals approved the application submitted by Rochel and Asher David of 10 Moccasin Place, Wesley Hills, new York for variances to permit the construction of an addition to a single family residence, and

WHEREAS, because 10 Moccasin Place is within 500 feet of a Country Road the application required a GML review by Rockland County Planning Department, and

WHEREAS, because of delays in the mails, the Village did not receive the GML review from County Planning within the 30 day review period so that the ZBA did not consider the review letter before approving the application, and

WHEREAS, recommendation number 1 in the review letter requires the public hearing notice for the project to be amended to reflect the correct tax lot number, and

WHEREAS, it is necessary to override recommendation number 1 since the public hearing has already been held, closed and decision has been made by the ZBA,

NOW, THEREFORE, BE IT RESOLVED that the resolution adopted by the Zoning Board of Appeals of the Village of Wesley Hills on November 18, 2020 for the property known as 10 Moccasin Place, owned by Rochel and Asher David, is hereby amended by adding thereto a new condition, to be condition number 3, to read as follows:

3. Compliance with the Rockland County Planning Department GML review letter dated November 23, 2020, except that the Zoning Board of Appeals hereby overrides that portion of

recommendation number 1 that requires the public hearing notice to be reissued since it is not feasible to reissue the public hearing notice inasmuch as the public hearing has already been held and the property description and the street address stated on the notice were accurate and sufficient to notify the public of the location of the property, the tax lot number being off by only one lot.

Upon vote, this motion carried unanimously.

**Approval of Minutes- November 18, 2020**

Dennis Dale made a motion to approve the ZBA minutes of November 18, 2020 seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

Dennis Dale made a motion to adjourn the meeting to January 20, 2021 at 7:30pm, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully submitted,  
Sydney Aliseo