

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, February 17, 2021**

MEMBERS PRESENT:

Jonathan Gewirtz, acting Chairman
Carole Anderson
Dennis Dale
Stefanie Collantes, Ad Hoc

MEMBERS ABSENT:

Richard Weinberger, Chairman
Mordechai Schwab
Randi Marlin, Ad Hoc

OTHERS PRESENT:

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

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

**Item #1- Continued Public Hearing – Kleiman
14 Bruck Court**

Stanley Mayerfeld, the Applicant's Architect, appeared before the Board and affirmed to tell the truth.

Stanley Mayerfeld stated that the Zoning Board held a site visit on 2/14/21 at the Kleiman residence at which time the Board had an opportunity to view the site. Mr. Mayerfeld stated that the house is two stories with a garage, sunroom and a half story master bedroom. Stanley Mayerfeld stated that the house exceeded the allowed building coverage while it was being constructed and the homeowner was required to appear before the Zoning Board of Appeals for the necessary variances as per the Village Engineer. Mr. Mayerfeld stated that due to the half story master bedroom and the exception in the Village Code, the required building coverage should have been .133 however, the Zoning Board of Appeals granted their requested variance as if it were a regular property. Mr. Mayerfeld stated that the property owner is now requesting a variance for a 13x25 proposed pool house for his growing family. Mr. Mayerfeld stated that the pool house is small and only increases the building coverage from .1396 to .15. It would be minimal if the house is considered to be a 1 ½ story house. Similarly, the pool and pool house together only increase impervious surface ratio from .276 to .316. Both increases are minimal.

Steve Kleiman, the Applicant, appeared before the board and affirmed to tell the truth.

Steve Kleiman stated that the proposed structure is 13x25 with a small, enclosed portion which includes a bathroom and changing room. Mr. Kleiman stated that the pool house will be located directly behind the house to minimize the effect on neighboring properties.

Stanley Mayerfeld stated that the Village Engineer will review the plan and consider all drainage

concerns when the application is submitted to the Building Department. Mr. Mayerfeld confirmed that there will be zero net run-off from the proposed structure.

Stefanie Collantes questioned if a trellis could be installed instead of the proposed overhang in order to avoid the variance? Stanley Mayerfeld stated that a trellis does not provide shade or protection from the elements and therefore the Applicant would prefer the overhang and request the variance.

Jonathan Gewirtz questioned if anyone from the public wished to speak. No one wished to speak

Dennis Dale made a motion to close the public hearing, seconded by Stefanie Collantes. Upon vote this motion carried unanimously.

Jonathan Gewirtz stated that he is in support of the application being that the proposed structure is located directly behind the house, there is existing natural screening on the property, and the building permit process will address all drainage concerns the Board may have.

Dennis Dale made a motion to approve the following resolution, seconded by Stefanie Collantes:

In the Matter of the Application of

Rivka Kleiman

Premises situated on the east side of Bruck Court

Approximately 325 feet north of Charlotte Drive,

Known as 14 Bruck Court, designated on the Tax Map as Section 41.08 Block 2 Lot 20, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Rivka Kleiman for variances 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 an inground swimming pool and cabana having Building Coverage of .15 instead of the maximum permitted of .10 and impervious surface of .316 instead of the maximum permitted of .25, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on January 20, 2021, which hearing was continued on February 17, 2021, and

WHEREAS, the applicant appeared in person and by her architect and representative who testified as follows:

That the applicant was granted minor variances several years ago for construction of the residence;

That the current application is variances for building coverage and impervious surface coverage to permit the construction of an inground pool and small cabana having 325 square feet;

That as with other residents, the pandemic has heightened the need for a at-home use of a swimming pool;

That no setback variances are needed by a small building coverage variance from .136 to .15 is requested for the cabana;

That it can be argues that the existing residence is a one and a half story residence which would permit building coverage of .133 instead of ,10 and the increase to ,15 would be minimal;

That the requested impervious surface coverage of .315 is less than a 25% variance;

That no setback variances are requested; and

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

WHEREAS, members of the Zoning Board of Appeals visited the site to view the site 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 Rivka Kleiman for variances 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 an inground swimming pool and cabana having building coverage of .15 and impervious surface ratio of .316 is hereby approved, and be it further

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

1. That if the residence is considered one and half stories, the building coverage variance would be minimal, less that 20%, since the permitted would be ,133 and the impervious surface ratio is less than a 25% variance;
2. That there is no feasible alternative in that the cabana is small compared to others;
3. That there will be no change in the character of the neighborhood and no adverse environmental impacts have been identified;
4. That the benefit of the applicant by granting the variances is substantial whereas no detriment to the neighborhood or to the community have been identified.

Upon vote, this motion carried unanimously.

Item #2- Continued Public Hearing - Horowitz

72 Lime Kiln Road

Stanley Mayerfeld, the Applicant's Architect, appeared before the Board and stated that the Board members completed a site visit on 2/14/21. Mr. Mayerfeld stated that the fence that is located outside of the property lines on the Town of Ramapo's property will be moved within the property lines in the spring when the snow melts. Mr. Mayerfeld stated that the Applicant installed pervious pavers on the driveway which reduced the front yard impervious surface ratio to .23 when the maximum is .22. Mr. Mayerfeld stated that the house complies with the bulk table of dimensional requirements, however, portions of the deck are 5' to 12' off the ground in some areas which triggers the need for a building coverage variance. Stanley Mayerfeld stated that the homeowner will address the Village Engineer's letter with the Village. He stated that the location of the hot tub does not affect anyone as the adjacent property parking is a vacant lot owned by the Town of Ramapo.

Stanley Mayerfeld stated that he will comply with the letter from the Town of Ramapo Department of Public Works dated 2/17/21.

Stanley Mayerfeld stated that the size of the driveway provides parking and a turnaround area for the property owners, so they do not need to back out of the driveway onto the busy road. Mr. Mayerfeld stated that the Applicant is only requesting a .01 variance for the front yard impervious surface ratio as they have installed pervious pavers in order to reduce their request.

Jonathan Gewirtz stated that he agrees that the driveway provides a safe exit for the property owners.

Dennis Dale expressed his concerns in regards to the 8 foot fence on the north side of the property. Sherry Horowitz, the Applicant, stated that the property is on a main road and the height of the fence was installed to protect her family and her property from people and animals.

Jonathan Gewirtz questioned if anyone from the public wished to speak? No one wished to speak.

Jonathan Gewirtz stated that the Board will override item #4 on the Rockland County Planning letter dated 2/4/21 as the driveway allows for the property owner to safely exit the property without backing out onto a county road and the Applicant has also installed pervious pavers where possible in order to reduce the size of the variance.

Dennis Dale made a motion to approve the following resolution, seconded by Carole Anderson:

In the Matter of the Application of
Samuel and Sherry Horowitz
Premises situated on the south side of
Lime Kiln Road approximately 220 feet west
Of Wilder Road, known as 72 Lime Kiln Road,
Designated on the Tax Map as Section 41.06
Block 1 Lot 81, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Samuel and Sherry Horowitz for variances from the provisions of Section 230-17 Attachment I, 230-14L(8), 230-14O(3) and 230-34A of the Code of the Village of Wesley Hills to permit the maintenance and use of a single family residence, pool and hot tub having year yard of 40.7 feet instead of the minimum required of 50 feet, building coverage of .1293 instead of the maximum permitted of .10, impervious surface ratio of .24 instead of the maximum permitted of .20, front yard impervious surface ratio of .23 instead of the maximum permitted of .22, hot tub 9 feet from the rear property line instead of the minimum required of 16.66 feet, 8 foot fence 2.8 feet from the property line instead of the minimum required of 5.33 feet from the property line and the fence at the rear of the property is not inside the property lines, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on January 20, 2021, which hearing was continued on February 17, 2021, and

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

That mistakes were made by their engineer which resulted in an excessive amount of impervious surface, requiring applicants to install a large amount of pervious pavers to keep the variances to a minimum;

That the 8 foot fence is to protect applicant's children from the busy road;

That the wide circular driveway is to permit guests to park on site with a turnaround area, so they do not have to back onto the road;

That the rear yard variances do not affect anyone because the rear property is vacant land belonging to the Town of Ramapo;

That the impervious surface ratio variances are minimal;

That the fence constructed on the adjacent property was a mistake of applicants' fence contractor and the fence will be moved on applicants' property; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the various conditions; and

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

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

RESOVLED, that the application submitted by Samuel and Sherry Horowitz for variances from the provisions of Section 230-17 Attachment I, 230-14L(8), 230-14O(3) and 230-34A of the Code of the Village of Wesley Hills to permit the maintenance and use of a single family residence, pool and hot tub having year yard of 40.7 feet instead of the minimum required of 50 feet, building coverage of .1293 instead of the maximum permitted of .10, impervious surface ratio of .24 instead of the maximum permitted of .20, front yard impervious surface ratio of .23 instead of the maximum permitted of .22, hot tub 9 feet from the rear property line instead of the minimum required of 16.66 feet, 8 foot fence 2.8 feet from the property lien instead of the minimum required of 5.33 feet from the property line is hereby approved, subject to the following conditions:

1. Compliance with the letter dated December 10, 2020 from Brooker Engineer;
2. Compliance with the GML review letter dated February 3, 2021 from Rockland County Planning Department except that the Zoning Board of Appeals overrides Recommendation No.4 for the reason that the Board believes that the proposed turnaround area and additional parking are necessary for safety and to prevent parking on the heavily travelled street;
3. Compliance with the letter dated January 13, 2021 from County Highway; and be it further

RESOLVED, that the variance from the provisions of Section 230-34A of said Code to permit a fence outside of applicant's property is herby denied and such fence must be removed, 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 except for the rear yard setbacks and the rear yard setbacks do not affect adjoining neighbors because the property in the rear is vacant land owned by the Town of Ramapo;
2. That applicant has mitigated the front yard and overall impervious surface ratios by installing a substantial amount of pervious pavers;
3. That the variances do not change the character of the neighborhood nor are a detriment to adjoining properties;
4. That the benefits to applicants by granting the variances are substantial whereas no detriment to adjoining properties or to the neighborhood has been identified.

Upon vote, this motion carried unanimously.

**Item #3 – Public Hearing - Eisenreich
22 Hillside Court**

Jonathan Gewirtz read the following public hearing notice into the record:

Public Hearing on the application submitted by Brenton and Esther Eisenreich for a variance from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the relocation of a 766 square foot cabana having a side yard of 10.8 feet instead of the minimum required of 25 feet.

The subject premises are situated on the west side of Hillside Court at the intersection with Cara Drive, known as 22 Hillside Court, designated on the Tax Map as Section 41.08 Block 1 Lot 12, in an R-35 Zoning District.

Stanley Mayerfeld, the Applicant's Architect, appeared before the Board and stated that the Applicant previously appeared before the Zoning Board of Appeals for a variance for a proposed pool house. Mr. Mayerfeld stated that since the granting of the variance, the Applicant realized that the approved location of the structure blocked the view of the pool from their house and decided to relocate the structure to better fit their backyard. Mr. Mayerfeld stated that the moving of this structure triggered a side yard variance of 10.8 feet instead of the minimum required of 25 feet. Stanley Mayerfeld stated that the pool house was originally proposed between the house and the pool and is now being proposed on the side of the property.

Jonathan Gewirtz read an email from Judy Marcus stating her concerns in regards to the amount of trees that have been removed from the property into the record.

Dennis Dale made a motion to adjourn the meeting to March 17, 2021 at 7:30pm and to have a site visit on March 14, 2021, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Approval of Minutes- January 20, 2021

Dennis Dale made a motion to approve the ZBA minutes of January 20, 2021 seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Dennis Dale made a motion to adjourn the meeting to March 17, 2021 at 7:30pm, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully submitted,
Sydney Aliseo