

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, April 21, 2021**

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Richard Weinberger
Jonathan Gewirtz
Dennis Dale
Stefanie Collantes, Ad Hoc

MEMBERS ABSENT:

Carole Anderson
Randi Marlin, Ad Hoc

OTHERS PRESENT:

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

Chairman Schwab called the meeting to order at 7:35 p.m.

**Item #1- Continued Public Hearing – Sabel
27 Holland Lane**

Chairman Schwab stated that the Board completed a site visit on 4/11/21.

Martin Sabel, the Applicant, appeared before the Board and affirmed to tell the truth. Mr. Sabel stated that the existing house was built with a side yard of 24.5' instead of the required 25'. Mr. Sabel submitted a survey dated 1961 showing the house when it was originally constructed.

Chairman Schwab questioned if anyone from the public wished to be heard in regards to the application. No one wished to speak.

Doris Ulman, the Village Attorney, confirmed with Mr. Sabel that the proposed cabana was placed in that location to act as a noise barrier between their property and the shopping center. Mr. Sabel confirmed and stated that it is also proposed in that location in order to avoid the stream on the property.

Dennis Dale questioned the size of the cabana. Martin Sabel stated that the cabana is 14x18.

Martin Sabel stated that additional trees will be planted to provide screening for neighboring lots.

Stefanie Collantes stated that she was not present at the site visit.

Jonathan Gewirtz stated that at the site visit, the Board members had the opportunity to view the site and determined that the cabana is being proposed in the most logical location due to the uniqueness of the property. Jonathan Gewirtz stated that the lot is slightly undersized and backs up to a ravine that divides the Applicant's property and the shopping center. Mr. Gewirtz stated

that the proposed construction will not negatively impact any neighboring lots and is not out of character with the neighborhood.

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

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Richard Weinberger:

In the Matter of the Application of
Martin Sabel and Nechama Keller
Premises situated on the east side of Holland Lane,
Known as 27 Holland Lane, designated on the Tax Map
as Section 41.11 Block Lot 28, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Martin Sable and Nechama Keller 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 a residence having a side yard of 24.5 feet instead of the minimum required of 25 feet and a cabana having a rear yard of 35 feet instead of the minimum required of 50 feet and

WHEREAS, after due notice, a public hearing on said application was held on March 17, 2021, which hearing was continued of April 21, 2021, and

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

That the side yard variance is not required because the residence was constructed in 1961 and was permitted to have a side yard of 20 feet because of the undersized lot;

That the cabana is being placed behind the residence and to screen the residence and the pool from the rear of the shopping center which creates substantial noise and visual impacts;

That in addition there is a drainage easement that runs the length of the property and a swale that runs along the rear of the property behind the residence and the pool so the area for placement of the cabana is limited;

That the cabana will be placed between the pool and the swale;

That only one variance is required for the cabana; and

WHEREAS, member of the Zoning board of Appeals visited the site, heard the noise and saw the visual impacts emanating from the rear of the shopping center behind the property; and

WHEREAS, no one appeared in opposition to the application,

NOW, THEREFORE, IT IS HERBY DETERMINED that the proposed action is a Type II action and o SEQRA determination is required, and be it further

RESOLVED, that the application submitted by Martin Sabel and Nechama Keller for a variance to permit the construction, maintenance and use of a cabana having a rear yard of 35 feet instead of the minimum required of 50 feet is hereby granted, and eb it further

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

1. That the side yard variance is not needed inasmuch as the property is an average density lot and the side yard permitted by the Town of Ramapo in 1961 was 20 feet, the actual side yard of the existing residence is 24.5 feet;
2. That the placement of the cabana in the rear of the property behind the pool is necessary to provide some visual and noise barrier form the rear of the adjoining shopping center;
3. That the rear yard variance is not substantial in relation to the requirement;
4. That the cabana is not large and the granting of the variance will not impact adjoining properties or the neighborhood;
5. That the benefit to the applicant by granting the variance is substantial whereas no evidence of detriment to the neighborhood or to the community have been identified.

Upon vote, this motion carried unanimously.

Item #2- Continued Public Hearing – Eisenreich 22 Hillside Court

Chairman Schwab stated that the Board completed an additional site visit on 4/11/21 as per the Board's discussion at the last meeting.

Stanley Mayerfeld, the Applicant's Architect, appeared before the Board and affirmed to tell the truth. Mr. Mayerfeld stated that the Applicant previously appeared before the Zoning Board of Appeals for a variance for a proposed pool house located between the pool and the single-family residence. Mr. Mayerfeld stated that since the granting of the variance, the Applicant has decided to relocate the pool house triggering additional variances. Mr. Mayerfeld stated that the Applicant's insurance company encouraged the property owners to relocate the pool house for safety reasons. As per the last Zoning Board meeting, Stanley Mayerfeld submitted a revised plan showing the cabana having a side yard of 13 ¾' as opposed to the original request of 10.8'. Mr. Mayerfeld stated that the property is at an angle and the 13 ¾' represents the closest point to the property line.

Brenton Eisenreich, the Applicant, appeared before the Board and affirmed to tell the truth. Mr. Eisenreich stated that he has concerns in regards to his children's safety if the variance is not granted.

Benny Silber, the Contractor, appeared before the Board and affirmed to tell the truth. Mr. Silber stated that he has ordered 100 six-foot arborvitae to be planted for screening around the entire property.

Stefanie Collantes stated that she believes that there are other alternative locations for the proposed pool house where the requested variance would be reduced.

Stanley Mayerfeld stated that the interior of the proposed pool house is 350 square feet.

Chairman Schwab questioned if anyone from the public wished to be heard in regards to the application. No one wished to speak.

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

Jonathan Gewirtz stated that due to the location of the pool house, the natural screening being proposed by the Contractor, and the safety concerns of the homeowner, he is in favor of granting the variance.

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Dennis Dale:

In the Matter of the Application of
Brenton and Esther Eisenreich
Premises 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 41.8
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 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 construction maintenance and use of a 766 square foot cabana having a side yard of 10.8 feet instead of the minimum required of 25 feet, and

WHEREAS, after due notice, a public hearing on said application was held on February 17, 2021. Which hearing was continued on March 17, 2021 and April 21, 2021, respectively and

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

That variances for construction of the pool and cabana were granted in July 2020;

That the original plan was to place the cabana between the house and the pool by the applicants' insurance agent suggested that, for safety reasons, the cabana should not obstruct the visibility of the pool from the house;

That the north side of the property is not a straight line so only one corner of the cabana will be 10.8 feet from the property line; the balance will be a little further away;

That applicants' contractor has already ordered 100 six foot tall arborvitae to screen eh side of the property; and

WHEREAS, members of the Zoning Board of Appeals visited the site of two occasions and determined that there were other locations for the cabana and asked the applicant to reconsider the placement of the cabana; and

WHEREAS, the applicant stated that the interior of the cabana is only 350 square feet and could be placed on the pool patio 13.75 feet from the side property line;

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

RESOLVED, that the application submitted by Brenton and Esther Eisenreich for a variance form 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 side yard of 13.75 feet instead of the minimum required of 25 feet is hereby granted, subject to the condition that 6 feet on center along the north property line of the subject property where the cabana will be placed and for a distance of 10 feet on either side of the cabana, the placement and type of evergreens to be approved by the Village Engineer, and be it further

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

1. That for safety reasons the cabana should be placed to the side of the pool and not obstruct visibility between the pool and the house;
2. That after construction of the pool, the side yard remaining is not sufficient to construct a cabana that complies with the 25 foot side yard requirement of the Zoning Law;
3. That at least half of the square footage of the cabana is open space so that the building will not look massive;
4. That at the Board's request the applicant relocated the cabana to a place on the pool patio and further from the side property line and will provide tall evergreen screening along that line;
5. That the benefit to the applicants by granting the variance outweighs any potential detriment to the neighborhood or community.

Upon vote, this motion carried 4 in favor, Stefanie Collantes abstained.

**Item #3 – Continued Public Hearing – March
174 Grandview Avenue**

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

Continued Public Hearing on the application submitted by Cheskel March on appeal of a determination of the Building Inspection dated December 20, 2020 that an apartment situated above the garage at 174 Grandview Avenue had lost its non-conformity or, in the alternative, for an extension of the previous non-conforming use of the dwelling unit.

The subject premises are situated on the south side of Grandview Avenue approximately 200 feet east of Forshay Road, known as 174 Grandview Avenue, designated on the Tax Map as Section 41.14 Block 1 Lot 51, in an R-35 Zoning District.

Paul Baum, the Applicant's Attorney, appeared before the Board and stated that the Applicant, Mr. Cheskel March, purchased the property in 2015. Mr. Baum stated that the accessory structure on the property has been used as a separate dwelling unit above the garage and was still being used as a separate dwelling unit when Mr. March purchased the property. Paul Baum stated that the Applicant performed construction on the accessory structure without obtaining a building permit. When Cheskel March applied for the building permit, John Layne, the Building Inspector, issued a denial letter stating that the property has lost its nonconformity because the structure was left unoccupied for 6 months. Paul Baum stated that the use of the accessory structure has never ceased and is still being used as a separate dwelling unit. Paul Baum stated that a letter was issued by the Building Inspector in 2011 stating that the use ceased. Paul Baum stated that Cheskel March has confirmed that the structure has always been occupied. A survey is being prepared and will be submitted to the Planning Board before the next meeting.

Cheskel March, the Applicant, appeared before the Board and affirmed to tell the truth. Cheskel March stated that the accessory structure was being occupied when he purchased the property and continued being occupied thereafter.

Doris Ulman stated that Paul Baum must submit evidence that the property was being occupied.

Paul Baum confirmed with Cheskel March that when he purchased the property the tenant in the accessory structure left and Mr. March kept the property occupied.

Paul Baum stated that there is no evidence that the use of the accessory structure ceased and that the burden should be on the Building Inspector to prove that the structure was unoccupied. Doris Ulman stated that the burden is on the Applicant to prove that the structure was being occupied.

Richard Weinberger encouraged the Applicant to reach out to the Building Inspector to determine why he believes that the use in the accessory structure ceased.

Chairman Schwab questioned if anyone from the public wished to speak?

Renee Elyhani, 89 Forshay Road, appeared before the Board and affirmed to tell the truth. Ms. Elyhani stated that she is a neighbor of the property and has seen the accessory dwelling being occupied for the last 24 years.

Harry Baldinger, 176 Grandview Avenue, appeared before the Board and affirmed to tell the truth. Mr. Baldinger stated that he is a neighbor of the property and has also seen the accessory dwelling being occupied.

Jonathan Gewirtz questioned why the owner of the property did not respond to the request for a violation search inspection in 2009? Mr. Gewirtz stated that a violation was issued in 2011.

Jonathan Gewirtz questioned if any work was completed on the accessory structure? Paul Baum answered yes and stated that the Applicant applied for a permit when the violation was issued and it was denied by the Building Inspector. Paul Baum stated that since then, the Applicant has applied to the Zoning Board for their determination.

Jonathan Gewirtz made a motion to adjourn the hearing to May 19, 2021 at 7:30pm, with a site visit on May 9, 2021 at 9am, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Item #4 – Public Hearing – Berkowitz 20 Sherri Lane

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

Public Hearing on the application submitted by Benjamin and Chana Berkowitz 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 addition to a single-family residence having a side yard of 18.5 feet instead of the minimum required of 25 feet, building coverage of .146 instead of the maximum permitted of .10 and impervious surface ratio of .313 instead of the maximum permitted of .25.

The subject premises are situated on the south side of Sherri Lane approximately 335 feet west of Plank Road, known as 20 Sherri Lane, designated on the Tax Map as Section 41.16 Block 1 Lot 22, in an R-35 Zoning District.

Stanley Mayerfeld, the Applicant's Architect, appeared before the Board and stated the Applicant has lived at 20 Sherri Lane since 2003. Mr. Mayerfeld stated that due to the pandemic, the property owner has closed his offices and has began working from home. Mr. Mayerfeld stated that the proposed addition will consist of a study for Mr. Berkowitz. Stanley Mayerfeld stated that the house is only 2,800 square feet which is not excessive for the neighborhood. Mr. Mayerfeld stated that the addition is only 290 square feet.

Chairman Schwab questioned if anyone from the public wished to be heard in regards to the application?

Rita Joachim, 21 Tammy Road, appeared before the Board and affirmed to tell the truth. Ms. Joachim stated that she is not opposed to the construction on the property, however, she has concerns in regards to the large machinery that is being used on all new construction sites. Ms. Joachim stated that the large amount of construction that has taken place in the Village has caused damage to her property and increased water on her lot.

Benjamin Berkowitz, the Applicant, appeared before the Board and affirmed to tell the truth. Mr. Berkowitz stated that the way the house is laid out, the addition is being proposed in an existing indent in order to minimize the effects on neighboring properties.

Stanley Mayerfeld stated that when the Applicant applies to the Building Department for a building permit he will ensure that there is zero net runoff on the neighboring properties. Mr. Mayerfeld stated that the application will be reviewed by the Engineer throughout the process.

Doris Ulman questioned why the study is not being proposed in the rear of the property? Stanley Mayerfeld stated that due to the layout of the home, it would be most quiet for Mr. Berkowitz to work in the formal portion of the house not the informal portion.

Stanley Mayerfeld submitted 9 letters of support from neighboring properties.

Jonathan Gewirtz made a motion to adjourn the meeting to May 19, 2021, with a site visit on May 9, 2021 at 9am, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Item #5 – Public Hearing – Shimmy Enterprises 59 S Parker Drive

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

Public Hearing on the application submitted by Shimmy Enterprises, inc. for variances from the provisions of Section 230-17 Attachment I of the Code of the Village of Wesley Hills and for an interpretation of the definition of DEVELOPMENT COVERAGE to permit the construction, maintenance and use of an addition to a single family residence consisting of a garage and an enclosed swimming pool having impervious surface coverage ratio of .29 instead of the maximum permitted of .25, front yard impervious surface ratio of .28 instead of the maximum permitted of .23 and building coverage of .167 instead of the maximum permitted of .1245.

The subject premises are situated on the south side of Parker Drive approximately 100 feet east of Pilgram Lane, known as 59 S Parker Drive, designated on the Tax Map as Section 41.18 Block 1 Lot 39, in an R-35 Zoning District.

Paul Baum, the Applicant's Attorney, appeared before the Board and stated that the Applicant is requesting three variances to construct an addition on the property that consists of a garage and an enclosed swimming pool. Paul Baum stated that the pool is located completely underground

with a patio above it. Mr. Baum stated that the pool can only be accessed from the inside of home. Paul Baum stated that he will submit a color copy of the plot plan showing which portion of the structure is located below the ground and what portion of the proposed construction requires variances for the next meeting

Shimmy Galandauer, the Applicant's Contractor, appeared before the Board and affirmed to tell the truth. Mr. Galandauer stated that the property will be fully landscaped and screened.

Chairman Schwab questioned if anyone from the public wished to be heard in regards to the application. No one wished to speak.

Jonathan Gewirtz made a motion to adjourn the meeting to May 19, 2021, with a site visit on May 9, 2021 at 9am, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Approval of Minutes- March 17, 2021

Stefanie Collantes stated that the item numbers on the minutes should be in order and one of the dates should be corrected.

Sydney Aliseo, Deputy Village Clerk, stated that she will make the requested changes.

Dennis Dale made a motion to approve the amended minutes of March 17, 2021, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Dennis Dale made a motion to adjourn the meeting to May 19, 2021 at 7:30pm, seconded by Jonathan Gewirtz. Upon vote, this motion carried unanimously.

Respectfully submitted,
Sydney Aliseo