

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, June 16, 2021**

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Richard Weinberger
Carole Anderson
Stefanie Collantes, Ad Hoc
Randi Marlin, Ad Hoc

MEMBERS ABSENT:

Jonathan Gewirtz
Dennis Dale

OTHERS PRESENT:

Doris Ulman, Assistant Village Attorney
Camille Guido-Downey, Village Clerk
Tara Roberts, Deputy Village Clerk

Chairman Schwab called the meeting to order at 7:40 p.m.

**Item #3- Continued Public Hearing – Kluger
23 Tammy Road**

Todd Rosenblum, the Applicant's Architect, appeared before the Board and affirmed to tell the truth. Mr. Rosenblum stated that there was a site visit conducted on June 13th, 2021. Mr. Rosenblum stated that the following variances are being requested for the swimming pool, patio, pergola, and cabana:

1. Building coverage: .1273 instead of .10
2. Impervious surface .28 instead of .25.

Mr. Rosenblum noted that there are letters of support on file and the Village Engineer has reviewed the drainage on the property. The applicant will install dry wells on the property if needed.

Chairman Schwab questioned if anyone from the public wished to be heard regarding the application.

No one wished to speak.

Mr. Rosenblum stated for the record that the proposed structures will not have any negative impacts on the property or the neighborhood.

Richard Weinberger made a motion to close the public hearing, seconded by Mordechai Schwab.

Richard Weinberger made a motion to approve the application of 23 Tammy, seconded by Stephanie Collantes. Upon vote, this motion was passed unanimously.

In The Matter of the Application of
Yisroel and Heidi Kluger
Premises situated on the north side of Tammy Road
Approximately 420 feet west of Plank Road, known
As 23 Tammy Road, designated on the Tax Map as
Section 41.16 Block 1 Lot 37, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Yisroel and Heidi Kluger for variances from the provisions of Sections 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a pool, cabana, pool patio and pergola having building coverage of .1273 instead of the maximum permitted of .10 and impervious surface ratio of .28 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 May 19, 2021, which hearing was continued on June 16, 2021, and

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

That the pool is under construction and does not need a variance except when added to the cabana and pergola, which all together increase the impervious surface ratio to .28.

That the cabana is only 390 square feet and is small compared to some of the other cabanas in the neighborhood.

That the variances are small in relation to the requirement, building coverage being 20% and impervious surface ratio less than 15%;

That there is no feasible alternative other than to abandon the project altogether, which is not feasible since the cabana is an important feature when using the pool and the pergola is to provide shade for persons out-of-doors and these features are common to the neighborhood;

That the Village Engineer has reviewed the project and applicants will comply with whatever the Engineer requires;

That there are no setback variances requested and no impact on adjacent properties or on the neighborhood; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the proposed locations of the structures; and

WHEREAS, no one appeared in opposition to the application and applicant submitted several 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

RESOLVED, that the application submitted by Yisroel and Heidi Kluger 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, cabana, pool patio and pergola having building coverage of .1273 instead of the maximum permitted of .10 and impervious surface ratio of .28 instead of the maximum permitted of .25 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 relation to the requirement;
2. That there is no evidence that the variances will adversely impact adjacent properties or the neighborhood;
3. That there is no feasible alternative to granting the variances other than to deny the project which, in this case, is not feasible;
4. That the benefit to the applicants by granting the variances is substantial whereas no detriment to adjacent properties or to the neighborhood has been identified.

**Item #4- Continued Public Hearing – Schwartz
7 Ardley Place**

Todd Rosenblum, the Applicant's Architect, appeared before the Board and affirmed to tell the truth. Mr. Rosenblum stated that his client is seeking variances for a new home and cabana. The following variances were being requested:

1. West side- side yard of 20.3 feet instead of the minimum required of 25 feet
2. East side -side yard of 15.9 feet instead of the minimum required of 25 feet
3. Rear yard of 16.2 feet instead of the minimum required of 50 feet
4. Total side yard of 58.4 feet instead of the minimum required of 60 feet
5. Building coverage of .134 instead of the maximum permitted of .12
6. Front yard impervious surface of .28 instead of the maximum permitted of .20

Mr. Rosenblum stated that there was a site visit on June 13th and the applicant has revised their plan to eliminate and reduce the size and number of variances. Mr. Rosenblum provided the following documents:

1. Landscaping plan prepared by Yost Design Landscape Architecture, dated November 16th, 2020.

2. Interior layout plan of the archway
3. Revised narrative dated June 16th, 2021.
4. Revised site plan prepared by Civil Tech Engineering and Surveying dated 7/10/20, last revised 6/16/21.

Further, Mr. Rosenblum stated that based on the site visit, the applicant eliminated the front yard impervious surface variance as the homeowner has agreed to install pervious pavers on the front driveway. The applicant has also moved the swimming pool and cabana and has reduced the variances so that the following variances are requested:

1. Side yard of 20.3 feet instead of the minimum required of 25 feet for the archway.
2. Side yard of 18 feet instead of the minimum required of 25 feet for the cabana.
3. Rear yard of 18 feet instead of the minimum required of 50 feet.
4. Total side yard of 58.4 feet instead of the minimum required of 60 feet
5. Building coverage of .134 instead of the maximum permitted of .12

Todd Rosenblum clarified that the variance for the archway decorative is only for the pier, not for the entire architectural structure. He further explained that the location of the cabana has been moved to decrease the variance being requested and noted that the cabana is a total of 500 square feet- 275 is enclosed and 175 square feet is open as it is a porch. A landscaping plan prepared by Yost Design was submitted which shows multiple pine trees and a row of hedge trees which the applicant feels addresses any privacy concerns.

Richard Weinberger stated that the landscaping plan should be a condition of approval.

Chairman Schwab agreed.

Doris Ulman noted for the record that 175 square feet of the cabana is open space.

Chairman Schwab questioned if anyone from the public wished to be heard regarding the application.

No one wished to speak.

Randi Marlin moved to close the public hearing, seconded by Carole Anderson. Upon vote this motion passed unanimously.

Richard Weinberger made a motion to approve the revised application of 7 Ardley for the requested variances subject to compliance with the landscaping plan from Yost Design dated 11/16/20, seconded by Carole Anderson.

**In the Matter of the Application of
Mark and Goldie Schwartz
Premises situated on the south side of Ardley Place
Approximately 250 feet east of Astor Place, known as
7 Ardley Place, designated on the Tax map as Section**

41.20 Block 1 Lot 24, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Mark and Goldie Schwartz 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 single family residence and cabana having a side yard of 20.3 feet instead of the minimum required of 25 feet on the west side of the property, a side yard of 15.9 feet instead of the minimum required of 25 feet on the east side of the property, rear yard of 16.2 feet instead of the minimum required of 50 feet, total side yard of 58.4 feet instead of the minimum required of 60 feet, building coverage of .134 instead of the maximum permitted of .12 and front yard impervious surface ratio of .28 instead of the maximum permitted of .20, and

WHEREAS, after due notice, a public hearing was held by the Zoning Board of Appeals on May 19, 2021, which hearing was continued on June 16, 2021, and

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

That after the site visit and at the request of the Board, the applicant has revised the site plan 1) to install pervious pavers in the majority of the driveway so that the variance for front yard impervious surface ratio has been eliminated and 2) to move the cabana two feet further from the side and rear property lines so that the variances for the cabana have been reduced to 18 feet from the side property line and 18 feet from the rear property line;

That applicant has retained Yost Design Landscape Architects who have prepared a landscaping plan to reduce or eliminate any potential impacts on adjacent properties;

That the cabana is only 450 square feet of which 175 square feet is open porch so that the impact of the building will be minimal since there will be substantial open space with the side and rear yards;

That the next door neighbor has requested that the cabana be placed in the proposed location so that it is not intrusive;

That only one corner of the cabana is 18 feet from the property lines since the building will be placed on an angle; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the placement of the structures; and

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

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 Mark and Goldie Schwartz 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 single family residence and cabana having one side yard of 20.3 feet for an open decorative archway instead of the minimum required of 25 feet, having the other side yard of 18 feet instead of the minimum required of 25 feet for a cabana, rear yard of 18 feet instead of the minimum required of 50 feet for the cabana, total side yard of 58.4 feet instead of the minimum required of 60 feet and building coverage of .134 instead of the maximum permitted of .12 is hereby approved, subject to the condition that applicants install and maintain landscaping in accordance with the landscaping plan prepared by Yost Design Landscape Architecture dated November 16, 2020, and be it further

RESOLVED, that the Zoning Board of Appeals hereby makes the following **FINDINGS OF FACT**:

1. That none of the variances are substantial except for the rear yard variance for the cabana and, because the cabana will be constructed on a slant, only one corner of the cabana will be 18 feet from the property line; in addition the entire front on the cabana will be open porch so that only 275 square feet of the cabana will encroach into the rear yard;
2. That because of the clearing limit line that prevents construction throughout much of the rear yard of the property and the need to have the cabana in close proximity to the pool, the space within which the cabana can be placed is very limited;
3. That the landscaping plan provides adequate screening to limit the impacts on adjacent properties;
4. That the Zoning Board of Appeals appreciates applicants' efforts to reduce the size and number of variances and the submission of a revised site plan that eliminates the need for the front yard impervious surface variance and reduces the size of the side and rear yard variances for the cabana;
5. That the benefit to the applicant by granting the variances is substantial whereas no evidence of detriment to adjacent properties or to the community has been identified.

Upon vote, this motion was passed unanimously.

**Item #5 – Continued Public Hearing – March
174 Grandview Avenue**

Richard Weinberger made a motion to adjourn the public hearing at the request of the applicants' attorney to July 21, 2021, seconded by Stephanie Collantes. Upon vote, this motion passed unanimously.

Item #6--Approval of Minutes- May 19, 2021

Carole Anderson made a motion to approve the minutes of May 19, 2021, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

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

Respectfully submitted,
Tara Roberts