

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, December 15, 2021**

MEMBERS PRESENT:

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

MEMBERS ABSENT:

OTHERS PRESENT:

Doris Ulman, Assistant Village Attorney
Tara Roberts, Deputy Village Clerk

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

**Item #3 –Continued Public Hearing – Schlesinger
19 Moccasin Place**

Chairman Schwab read the public hearing notice into the record and noted that there had been a site visit conducted on December 12th.

Todd Rosenblum appeared before the Board and affirmed to tell the truth. Mr. Rosenblum explained that the pool shed has brought to light that this property has two front yards. In addition, the shed is 100 square feet but has a porch. These facts have led to the need for variances.

Chairman Schwab asked if anyone from the public wished to speak. No one wanted to be heard.

Jonathan Gewirtz stated that he was in favor of granting the variances with fencing and screening as conditions of approval.

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

Carole Anderson made a motion to approve the application subject to screening being maintained, seconded by Chairman Schwab. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Sam Schlesinger
Premises situated on the southeast corner of Cambridge

Road and Moccasin Place, known as 19 Moccasin Place,
Designated on the Tax Map as Section 41.15 Block 1 Lot
42, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Sam Scheslinger for variances 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 swimming pool having a front yard of 28.4 feet instead of the minimum required of 50 feet, a cabana having a front yard of 16.3 feet instead of the minimum required of 50 feet and impervious surface ratio of .299 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 November 17, 2021, which hearing was continued on December 15, 2021, and

WHEREAS, the applicant appeared by his architect, who testified as follows:

That the pool was constructed approximately 8 years ago; at that time the Village did not require that a plot plan or site plan or bulk table be submitted with the building permit application;

When the pool was constructed, neither the applicant nor the Building Inspector realized that it was to be constructed in the second front yard and there was no calculation of the impervious surface ratio so that variances were not required prior to the issuance of a C.O. for the pool;

That the enclosed portion of the cabana is only 100 square feet and would not need a variance except that it has an open front porch which increases the square footage and requires compliance with the 50 foot setback;

That in order to mitigate any impacts resulting from the aforesaid mistakes the applicant has installed an attractive fence and has densely planted 8 foot tall bushes along the entire Cambridge Road boundary of the property so that the pool and cabana are not visible from the street; and

WHEREAS, members of the Zoning Board of Appeals visited the site and observed the dense screening and fencing, and

WHEREAS, no one appeared in opposition to the application,

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 Sam Schlesinger for variances 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 swimming pool having a front yard of 28.4 feet instead of the

minimum required of 50 feet, a cabana having a front yard of 16.3 feet instead of the minimum required of 50 feet and impervious surface ratio of .299 instead of the maximum permitted of .25 is hereby granted, subject to the following conditions:

1. That the fence be maintained in its current size, height, condition and location;
2. That the existing bushes along Cambridge Road be maintained at the existing density and at a height of at least 8 feet to screen the pool and cabana from the street; and be it further

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

1. That applicant made an honest mistake by not realizing that Cambridge Road was to be considered as a front yard for setback purposes and received a building permit and C.O. for the pool;
2. That at the site visit members of the Zoning Board of Appeals agreed that the swimming pool and cabana are not visible from the street because of the dense screening and fencing;
3. That the interests of justice require that the variances be granted.

Item #4 –Public Hearing – Bistritzky 15 Tammy Road

Chairman Schwab read the public hearing notice into the record.

Todd Rosenblum appeared before the Board and affirmed to tell the truth. He asked to amend the application to reflect the property ownership as an LLC. Mr. Rosenblum submitted proof of filing with the State showing Mr. Bistritzky as the principal of the LLC. Mr. Rosenblum updated the Board and let them know that Celentano has re-surveyed the site showing more than 15 feet from the rear property line so a rear yard variance is not needed.

Mr. Rosenblum stated that a visit to the site would be helpful for the Board. Mr. Rosenblum stated that a front yard variance may be needed in addition to those currently sought.

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

Rita Joachim-21 Tammy Road-affirmed to tell the truth. Mrs. Joachim stated that the house at 15 Tammy Road is beautiful. She also stated that in recent years Tammy Road has changed-new construction, renovations-how did this change happen? Mrs. Joachim stated that every time a shovel is put in the ground within 6 blocks of her home, her home moves. Mrs. Joachim stated that her house settled in 1966 but this construction is affecting her home. She does not have an objection to the construction, but objects to after the fact variances.

Jonathan Gewirtz questioned why the issue with the eaves was not caught. He further stated that the building inspector should be on site to ensure that the building is being done to the plans.

Jonathan Gewirtz made a motion to adjourn this matter to the January 19th meeting, with a site visit scheduled on January 16th, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

**Item #5 –Public Hearing- Gelb
7 Amsterdam Avenue**

Stanley Mayerfeld, architect for the applicant, was present and affirmed to tell the truth.

Mr. Mayerfeld stated that this property is in need of multiple variances for a single family residence. Mr. Mayerfeld is confirming if a variance for rear yard will be required.

Mr. Gewirtz inquired if variances were needed when the construction was done on the existing addition and deck. Mr. Mayerfeld stated that he would confirm with the Village.

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

Chairman Schwab made a motion to adjourn this matter to the January 19th meeting, with a site visit scheduled on January 16th, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

**Item #6 –Public Hearing- Schwartz
6 Soundview Drive**

Chairman Schwab read the public hearing notice into the record.

Stanley Mayerfeld, architect for the applicant, was present and affirmed to tell the truth. Mr. Mayerfeld stated that this is a unique lot, as it is larger than 35, 000 square feet but there is an easement that reduces the size of the lot for building purposes. Chairman Schwab asked if the pool and pool house were moved up, wouldn't the variances be avoided. Mr. Mayerfeld agreed that they would.

Mr. Mayerfeld noted the letters of support from the neighbors that had been submitted. Doris Ulman stated that the letters were not signed. Mr. Mayerfeld noted this.

Chairman Schwab asked if anyone from the public wished to speak.

Fradly Makowsky-9 Deerwood Road-stated that she is concerned about noise from the pool use and asked that buffering be provided.

Mr. Mayerfeld stated that 6 Soundview Drive is two properties away and the pool is further back.

Dennis Dale made a motion to adjourn this matter to the January 19th meeting, with a site visit on January 16th, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Approval of Minutes- November 17, 2021

Jonathan Gewirtz made a motion to approve the minutes of November 17, 2021, seconded by Richard Weinberger. Upon vote, this motion carried unanimously.

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

Respectfully submitted,
Tara Roberts