

**Village of Wesley Hills
Zoning Board of Appeals
Via Zoom
Wednesday, January 19, 2022**

MEMBERS PRESENT:

Jonathan Gewirtz-Deputy Chair
Richard Weinberger
Stefanie Collantes, Ad Hoc
Carole Anderson
Randi Marlin, Ad Hoc

MEMBERS ABSENT:

Mordechai Schwab, Chairman
Dennis Dale

OTHERS PRESENT:

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

Jonathan Gewirtz called the meeting to order at 7:34 p.m.

**Item #3 –Continued Public Hearing – Bistritzky on behalf of 15 Tammy Road LLC.
15 Tammy Road**

Jonathan Gewirtz read the public hearing notice into the record and noted that there had been a site visit conducted on January 16th.

Todd Rosenblum appeared before the Board and affirmed to tell the truth. Mr. Rosenblum apologized for not being able to participate in the site visit due to a personal emergency, and stated that he did his own site visit prior to this meeting. Mr. Rosenblum explained that the gazebo is 44.8 feet from the front property line, instead of 50 feet. Mr. Rosenblum went on to explain that the gazebo is up on 4 posts and has no walls or roof. Mr. Rosenblum also stated that after recalculation by the applicant's engineer, the variance for the rear yard for the in-ground pool is no longer needed.

Mr. Rosenblum went on to state that there is sufficient screening and the Board has been in receipt of letters of support from the neighbors for this project.

Jonathan Gewirtz asked if anyone from the public wished to speak. No one wanted to be heard.

Jonathan Gewirtz asked if anyone from the Board wished to speak.

Doris Ulman esq. stated that there is a need to amend the original application, deleting the original variance request for rear yard and adding a front yard variance for the gazebo.

Carole Anderson stated that she attended the site visit on January 16th and she was unable to see the side yard during her visit. She was only able to see the front yard and therefore does not feel comfortable voting on this item.

Todd Rosenblum stated that you are not able to see the gazebo from the road because of screening. Mr. Rosenblum further stated that the gazebo is 255 square feet, 9 feet tall and has no walls.

Randi Marlin added that she drives past this property often and can confirm that the property is well screened.

Jonathan Gewirtz made a motion to close the public hearing, seconded by Randi Marlin.

Jonathan Gewirtz agreed with Ms. Ulman that the original application should be amended and made a motion to remove the request for rear yard for the pool and add the request for a front yard variance for the gazebo at 44.5 feet, with 50 feet required, seconded by Richard Weinberger. Upon vote, this motion carried with Carole Anderson abstaining.

Attorney Ulman inquired why the gazebo could not be moved back. Mr. Rosenblum responded that the gazebo was up on 4 columns sunken into the ground. Mr. Rosenblum further stated that the gazebo abuts a slate patio and moving the gazebo would destroy the patio if moved.

Richard Weinberger made a motion to approve the amended application with the condition of screening remaining the same, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

In The matter of the Application of
Bistrizky on behalf of 15 Tammy Road LLC
Premises situated on the northeast corner of Tammy Road
And Plank Road, known as 15 Tammy Road, designated on
The Tax Map as Section 41.16 Block 1, Lot 41, in and R-35
Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Morty Bistrizky on behalf of 15 Tammy Road, LLC, for variances from the provisions of Sections 230-17 Attachment 1, 230-14J(4) and 230-14O(4)(a) of the Code of the Village of Wesley Hills, to permit the maintenance and use of a single family residence, pool, cabana and pergola having building coverage of .125 instead of the maximum permitted of .109, rear yard of 14.5 feet instead of the minimum required of 15 feet and to permit eaves on the principal building to extend 30 inches into the side yard and 30 inches into the front yard at Plank Road instead of the maximum permitted of 18 inches, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on December 15, 2021, which hearing was continued on January 19, 2022, and

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

That the prior architect for this project was not familiar with Wesley Hills requirements and did not know that there was a limitation on the extension of the eaves;

That the 30" extension of the eaves (one foot more than permitted) was not discovered until after the house was completed and to remove and replace the eaves on two sides of the house would be very expensive;

That the applicant requests that the application be amended to remove the variance for the rear yard and to add the gazebo being 44.8 feet from the front property line instead of the 50 foot requirement;

That the gazebo has no walls and is 255 square feet-it is on a concrete base and in order to move it out of the front yard the entire patio would be destroyed;

That there is a line of dense trees at the front of the property that screens the gazebo and the house from the street, and

WHEREAS, one neighbor appeared and testified that if variances are needed they should be requested before construction, not afterwards, and

WHEREAS, members of the Zoning Board of Appeals visited the site.

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 is hereby amended by deleting the rear yard variance request and adding a front yard variance for the gazebo at 44.8 feet from the front property line instead of the minimum required of 50 feet, and be it further

RESOLVED, that the application submitted by Morty Bistrizky on behalf of 15 Tammy Road LLC for variances from the provisions of Sections 230-17 Attachment 1, 230-14J(4) and 230-14O(4)(a) of the Code of the Village of Wesley Hills, to permit the maintenance and use of a single family residence, cabana and pergola having building coverage of .125 instead of the maximum permitted of .109, front yard of 44.8 feet instead of the minimum required of 50 feet and to permit eaves on the principal building to extend 30 inches into the side and front yards instead of the maximum permitted of 18 inches are hereby granted, subject to the condition that the existing screening be maintained so that the gazebo remains fully screened from the street, 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 and are adequately screened from the street;
2. That the granting of the variances will not result in adverse ecological or environmental impacts and are not aesthetically offensive;

3. That although there are alternatives to granting the variances, those alternatives are very costly and will not make a substantial difference in the final product;
4. That the benefit to the applicant by granting the variances is substantial and there has been no evidence presented of detriment to the neighborhood or to surrounding properties.

**Item #4 –Continued Public Hearing – Gelb
7 Amsterdam Avenue**

Jonathan Gewirtz read the public hearing notice into the record.

Stanley Mayerfeld appeared before the Board and affirmed to tell the truth. Mr. Mayerfeld stated that there had been a site visit at the property on January 16th. He stated that the front yard and 9.7 foot side yard were existing when the Gelb's bought the house. The property is smaller due to average density and if a standard lot size these variances would not be needed. Mr. Gewirtz stated that the lot was approximately 80% of a typical lot.

Doris Ulman stated that the original average density certificate of occupancy was issued by the Town of Ramapo with a front yard of 45.9 and side yard of 22 feet. Ms. Ulman recommends that the review of the Board be based on the 22 feet, not the 25-foot standard.

Further, Ms. Ulman raised the fact that there are 5 certificates of occupancies in the building file for work done on this property but none mention that the deck is 9.7 feet from the side yard property line. Ms. Ulman stated that the other variances are minimal, however the Board may want to investigate the deck constructed without a permit or certificate of use.

Jonathan Gewirtz asked if anyone from the public wished to speak. No one wanted to be heard.

Jonathan Gewirtz asked if anyone from the Board wished to speak.

Randi Marlin stated that she would recommend more screening than a skinny tree. Stanley Mayerfeld stated that the tree Ms. Marlin is referring to is near the shed and during the spring and summer would provide screening.

Jonathan Gewirtz asked if the plan was to move the fence. Mr. Mayerfeld responded that that is not a part of the plan.

Jonathan Gewirtz stated that there is a window on the neighbor's home that faces this property. He stated that the applicant should assist to avoid privacy concerns. Mr. Mayerfeld stated that there are bedrooms and bathrooms in the construction plan. The bathroom will have frosted windows and all of the windows can be placed in the front and back of the home (not the sides) to avoid privacy concerns.

Randi Marlin made a motion to close the public hearing, seconded by Stefanie Collantes. Upon vote, this motion was carried unanimously.

Richard Weinberger made a motion to approve the application, with the exception of the 9.7 feet side yard variance for the deck, with the addition of evergreens for screening all the way to the fence, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to re-open the public hearing on the 9.7 feet side yard variance, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously. Chair Gewirtz made a motion to adjourn the public hearing to February 16, 2022, seconded by Stefanie Collantes. Upon vote, this motion was carried unanimously.

In the Matter of the Application of
Yitzchak and Yehudit Gelb
Premises situated on the north side of Amsterdam
Avenue approximately 20 feet west of Van Winkle
Lane, known as 7 Amsterdam Avenue, designated on
The Tax Map as Section 41.11 Block 1 Lot 32, in an
R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Yitzchak and Yehudit Gelb 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 an addition to a single family residence having a side yard of 20.5 feet instead of the minimum required of 25 feet, total side yard of 30.2 feet instead of the minimum required of 60 feet, building coverage of .116 instead of the maximum permitted of .10 and impervious surface ratio of .26 instead of the maximum permitted of .25 and to permit the maintenance and use of an existing single family residence and deck having front yard of 45.9 feet instead of the minimum required of 50 feet and side yard of 9.7 feet instead of the minimum required of 25 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on December 15, 2021, which hearing was continued on January 19, 2022 and

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

That this is an average density lot, the existing house originally approved by the Town of Ramapo;

That the lot is only 28,125 square feet in an R-35 Zoning District and, if the lot were 35,000 square feet the variances would not be necessary;

That the existing house approved by Ramapo has a front yard of 45.9 feet, a side yard of 22.5 feet and a total side yard of 45 feet;

That the addition is in an area that creates minimal land disturbance and requires minimal variances; and

WHEREAS, no one appeared in opposition to the application, and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the existing 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 Yitzchak and Yehudit Gelb 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 an addition to a single family residence having building coverage of .116 instead of the minimum required of .10, side yard of 20.5 feet instead of the minimum required of 25 feet, total side yard of 30.2 feet instead of the minimum required of 60 feet and impervious surface ratio of .26 instead of the maximum permitted of .25, and to permit the maintenance and use of an existing single family residence having a front yard of 45.9 feet instead of the minimum required of 50 feet are approved, subject to the condition that the existing line of dense trees be maintained and additional trees added along the balance of the fence line for adequate screening, subject to approval by the Village Engineering Consultant, and be it further

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

1. That this is an average density lot with front yard of 45.9 feet, side yard of 22.3 feet and total side yard of 45 feet;
2. That the variances requested are not substantial in relation to the requirement,
3. That there is no feasible alternative to granting the variances in that the addition to the residence requires the least number and smallest variances compared to placement of the addition in another portion of the residence;
4. That the variances will not adversely impact ecological, environmental or aesthetic conditions;
5. That the benefit to the applicants by granting the variances is substantial and no detriment to neighboring properties or to the community has been identified.

**Item #5 –Continued Public Hearing- Schwartz
6 Soundview Drive**

Jonathan Gewirtz 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. Mr. Mayerfeld stated that the rear

of the property backs up to a very large parking lot, and that placing a cabana at the rear of the property would not be a negative but would beautify the property.

Jonathan Gewirtz inquired about the possibility of moving the pool over to avoid the need for variances. Mr. Mayerfeld stated that in the proposed location, the cabana screens the pool from the parking lot and provides a barrier to noise, cars and headlights.

Jonathan Gewirtz asked if anyone from the public wished to speak. No one wished to be heard.

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

Richard Weinberger made a motion to approve the application and maintain the current screening, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Aron Z. Schwartz
Premises situated on the south side of Soundview
Drive approximately 250 feet west of Marisa Drive,
Known as 6 Soundview Drive, designated on the Tax
Map as Section 41.08 Block 1 Lot 47.2 in an R-35
Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Aron Z. Schwartz 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 rear yard of 15 feet instead of the minimum required of 50 feet, building coverage of .11 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 was held by the Zoning Board of Appeals on December 15, 2021, which hearing was continued on January 19, 2022, and

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

That the property at the rear of this property contains a large parking lot;

That the cabana at the rear of the property helps shield the swimming pool from noise and headlights within the parking lot;

That although the cabana could be placed elsewhere on the lot, it acts as a buffer for the applicant and does not impact adjoining properties;

That other than the rear yard variance, all other variances requested are small; and

WHEREAS, no one appeared in opposition to the application, and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the adjoining parking lot;

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 Aron Z. 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 cabana having rear yard of 15 feet instead of the minimum required of 50 feet, building coverage of .11 instead of the maximum permitted of .10 and impervious surface ratio of .28 instead of the maximum permitted of .25 are hereby approved, and be it further

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

1. That other than the rear yard variance, both of the other variances are not substantial;
2. That this is a unique property in that the adjacent property contains a parking lot that creates noise and headlights and the rear yard variance permits applicant to have a buffer from the noise and headlights;
3. That the variances do not adversely affect the ecological or environmental conditions of the property or adjacent properties;
4. That although there are feasible alternatives to granting the rear yard variance, the variance protects applicant's property from the adverse impacts of the adjacent property;
5. That the benefit to applicant by granting the variances is substantial whereas no evidence of detriment to adjacent properties or to the neighborhood have been identified.

**Item #6 –Public Hearing- Braunstein
5 Rochelle Lane**

Jonathan Gewirtz 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 process began back in October 2017, then the applicant removed this project from the agenda to help to calm tension with neighbors. The Braunsteins made the decision to keep the cabana one story to avoid the ability to look down on any neighbors. There had been a second story in the original plan but the Board had not previously been in favor of it.

The pool is built on the west side of the property. The pool house will be in the geothermal area of the property. Trees have been added to the property and they have begun to grow.

The plans for the rear of the property include 2 pods for the cabanas with an open pergola. The right side will be used as a bathroom and changing room and will be 11x15. The left side will be used as a lounge area including a couch and crib, in addition to a storage area and will be 11x16. Neither side will exceed 14 feet in height.

Mr. Mayerfeld noted that the increase in impervious surface is coming from the addition of the cabanas and pergola.

Mr. Mayerfeld noted that a kitchen would be added to one of the pods in the rear of the property. Attorney Ulman clarified that the Village does not allow this.

Jonathan Gewirtz asked if anyone from the public wished to speak. No one wished to be heard.

Ms. Ulman asked if the pods and pergola were separate structures. Mr. Mayerfeld clarified that they were all connected and that the center does not have a roof, only slats. Ms. Ulman further asked if you could get from one to another through a door. Mr. Mayerfeld responded that you could not.

Mr. Mayerfeld stated that the pergola is 15.5 feet.

Jonathan Gewirtz asked if the slats from one cabana to another would make this one structure. Ms. Ulman stated that she would need to review the plans.

Ms. Ulman inquired about how far the generator and the pool equipment were from the property line. Ms. Ulman requested that this information be added to the plans prior to the next meeting.

Jonathan Zupnik submitted a letter to the Board. He further shared a previous agreement amongst the neighbors and the need for appropriate screening as an affected party.

Mrs. Braunstein appeared before the Board and stated that there were initially 43 trees required by the Board, but 5 additional trees had been planted. In addition, hedges have been added by the pool.

Richard Weinberger made a motion to adjourn this matter to the February 16th meeting with a site visit on February 6th, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Item #7 –Public Hearing- Markowitz 5 Woodcrest Road

Jonathan Gewirtz read the public hearing notice into the record.

Mr. Markowitz is present and affirmed to tell the truth.

Mr. Markowitz that he would like to build a covered porch in the front of his home that slightly exceeds the allowable building coverage. The porch will be constructed for both coverage in bad weather and aesthetics.

Jonathan Gewirtz confirmed with Mr. Markowitz that he had been in receipt of the review letters from the County of Rockland. Mr. Markowitz confirmed that he had.

Jonathan Gewirtz asked if anyone from the public wished to speak. No one wished to be heard.

Carole Anderson made a motion to adjourn this matter to the February 16th meeting with a February 6th site visit, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Approval of Minutes- December 15, 2021

Carole Anderson made a motion to approve the minutes of December 15, 2021, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to adjourn, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

Respectfully submitted,
Tara Roberts