

**Village of Wesley Hills
Zoning Board of Appeals
Via Zoom
Wednesday, February 16, 2022**

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Jonathan Gewirtz-Deputy Chair
Dennis Dale
Stefanie Collantes, Ad Hoc
Carole Anderson
Randi Marlin, Ad Hoc

MEMBERS ABSENT:

Richard Weinberger

OTHERS PRESENT:

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

Chairman Schwab called the meeting to order at 7:41 p.m.

**Item #3 –Continued Public Hearing – Gelb
7 Amsterdam Avenue**

Chairman Schwab 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 is a certificate of occupancy for the rear deck, but it has a 9.7-foot side yard which never received a variance and was existing when the Gelb's bought the house. Mr. Mayerfeld stated that the Board had requested some time to review this variance.

Doris Ulman, esq. stated that she has reviewed the file and prepared a memo to the Board with her findings. Ms. Ulman stated that the issue arose in 2002. The homeowner at that time applied for a building permit for a mudroom, kitchen and deck. The Building Inspector did not allow a permit for a deck/patio. A new building inspector issued a certificate of occupancy for the deck-without any inspections for a deck noted. Ms. Ulman recommended that if the Board is inclined to approve, the approval be conditional on an architectural or engineering inspection to ensure that the deck is structurally sound.

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

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

Jonathan Gewirtz stated that he is concerned that this work was done without a permit. Mr. Gewirtz agrees that an inspection is needed and believes the deck is less obtrusive because of the drop in grade on the property and is approximately one foot off of the ground. Further, Mr. Gewirtz noted that the current homeowner did not create the situation.

Jonathan Gewirtz made a motion to close the public hearing, seconded by Mordechai Schwab. Upon vote, this motion was carried unanimously.

Randi Marlin made a motion to approve the application, with the condition that the deck be inspected by an architect or engineer to ensure soundness, seconded by Carole Anderson. Upon vote, this motion 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 a 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 deck having a 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 February 16, 2022, and

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

That the deck is only 9.7 feet from the side property line when it should be 25 feet from the property line, and was in existence when applicants purchased the property;

That applicants did not question the existence of the deck when they purchased the property because a C.O. had been issued for the deck;

That it now appears that the C.O. was issued in error because the deck was constructed in or about 2002 and a variance was not applied for nor granted: and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the deck; 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 Yitzchak and Yehudit Gelb for a variance from the provisions of Section 120-17 Attachment I of the Code of the Village of Wesley Hills,

to permit the maintenance and use of a deck having a side yard of 9.7 feet instead of the minimum required of 25 feet is hereby granted, on condition that the applicants obtain an architect's or engineer's certification that the deck is structurally safe to the satisfaction of the Building Inspector, and be it further

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

1. That although the variance is substantial, the deck has been in existence for almost 20 years and it appears that no one has complained about it;
2. That the current owners of the property did not construct the deck and the interests of justice require that they not be penalized;
3. That the error appears to have been made by the former Building Inspector and the applicants relied on the C.O. for the legality of the deck when they purchased the property;
4. That the benefit to the applicants by granting the variance is substantial whereas no detriment to adjoining properties or to the community has been identified.

**Item #4 –Continuation of Public Hearing- Braunstein
5 Rochelle Lane**

Chairman Schwab read the public hearing notice into the record.

Carole Anderson stated that she could not participate in this application because she serves on a committee with Mrs. Braunstein and she feels it is a conflict.

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 who were concerned about the privacy issue brought on by the mezzanine. The Braunsteins made the decision to keep the cabana one story to avoid the ability to look down on any neighbors.

The plans for this project will be revised bringing the side yard from 14.5 feet to 15.5 feet and building coverage from .12 to .112 or .113.

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

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

Stafanie Collantes asked if there had been any feedback from the neighbors. Mr. Mayerfeld stated that the concern has been about privacy. For that reason, there are no windows on one side of the cabana. There is a letter of support that has been provided.

Ms. Collantes went on to ask why there was a need for two cabanas. Mr. Mayerfeld stated that he believes they will be constructing one structure, as the pergola is in between.

Doris Ulman stated that if the applicant would remove one of the cabanas and the pergola from the plan, this would remove one variance and reduce the building coverage. Ms. Ulman also asked why the cabana could not be moved to the side of the pool, as this would remove the need for two variances and reduce two additional variances. Mr. Mayerfeld stated that the infrastructure-gas lines, sewer and water that would need to be taken out, make it challenging to move the cabana. Mrs. Braunstein stated that the geothermal wells are in the space to the side of the pool.

Chairman Schwab stated that this is a self-imposed hardship, as the geothermal area could have been in a different space. Mrs. Braunstein stated that there are many laws in Rockland County regarding geothermal wells, it was triple the amount of money to put in, the project required a significant amount of surface area and that she did not believe the homeowner should be penalized for making this choice.

Jonathan Gewirtz stated that the contractors did not think of the side yard when planning this project, because if the wells had been placed elsewhere some of the variances sought would be negated.

Dennis Dale stated that four years ago it was made clear what needed to be done to move forward with this project. Mr. Dale suggested that more work be done to move forward.

Jonathan Gewirtz stated that the Board is tasked with minimizing the number of variances and with lessening the severity of each variance.

Jonathan Gewirtz inquired if the generator could be relocated. Mrs. Braunstein stated that it would be complicated to move it.

Randi Marlin asked if the cabana could be placed anywhere else. Mrs. Braunstein stated that she cannot see it located anywhere else other than where it is planned. She stated that there are three neighbors on the property line and this is the least disruptive option- as it creates a barrier from one neighbor, is 200 feet for another and there is a letter of support from the third.

Mrs. Braunstein stated that they are generous with their pool, but some issues have been created with people in and out getting drinks, restrooms, cooking, etc. These issues have led to the need for these structures.

Chairman Schwab asked if any of the variances could be reduced or eliminated. Mr. Mayerfeld stated that 15 feet is at the worst part, but because the property is not on a 90 degree angle this variance gets better as you move away.

Chairman Schwab stated that nine or ten variances is an unhealthy precedent, and he would like to find some options to limit the number and severity of the variances sought.

Jonathan Gewirtz asked if requesting that the plans be updated would delay construction. Mrs. Braunstein agreed that she would work with Mr. Mayerfeld and submit a revision.

Jonathan Gewirtz made a motion to adjourn this matter to the March 15th meeting, seconded by Chairman Schwab. Upon vote, this motion carried unanimously, with Carole Anderson abstaining.

**Item #5 –Continuation of Public Hearing- Markowitz
5 Woodcrest Road**

Chairman Schwab read the public hearing notice into the record and noted the recent site visit to this property.

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

Mr. Markowitz stated 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.

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

Chairman Schwab asked if anyone from the Board wished to be heard. Dennis Dale stated that he agreed with approving this application. Ms. Collantes, Ms. Marlin and Ms. Anderson also agreed.

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

Chairman Schwab made a motion to approve this application, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

In the Matter of the Applicant of
Hillel Markowitz
Premises situated on the south side of Woodcrest
Road approximately 300 feet west of Wilder Road,
Known as 5 Woodcrest Road, designated on the Tax
Map as Section 41.10 Block 1 Lot 35, in an R-35
Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Hillel Markowitz 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 single family residence having building coverage of .106 instead of the maximum permitted of .10, and

WHEREAS, after du notice, a public hearing on said application was held by the Zoning Board of Appeals on January 19, 2022, which hearing was continued on February 16, 2022, and

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

That applicant is constructing a new two story residence with garage;

That he would like to add a small front porch to the house to protect against weather and for aesthetics;

That the porch adds a fraction to the building coverage, which becomes .106 instead of the maximum permitted of .10:

That the porch is also in line with other homes in the neighborhood, and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the location for the porch construction, and

WHEREAS, no one appeared in opposition to the application and several neighbors submitted 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 Hillel Markowitz for a variance from the provisions of Section 230-17 Section I of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a front porch on a single family residence having building coverage of .106 instead of the maximum permitted of .10 is hereby granted, subject to compliance with the letters received from Rockland County Planning, Rockland County Highway, Rockland County Sewer District No. 1 and Rockland County Environmental Health, and be it further

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

1. That the variance is minimal in size;
2. That there is no feasible alternative because to eliminate the front porch would leave no area for weather protection and the front porch will be similar to other houses in the neighborhood;
3. That the small increase in building coverage will not impact the environment or ecology;
4. That the benefit to the applicant by granting the variance is substantial whereas no detriment to nearby properties or to the neighborhood has been identified.

**Item #6 –Public Hearing- Kramer
23 Dike Drive**

Chairman Schwab read the public hearing notice into the record.

Todd Rosenblum, architect for the applicant, was present and affirmed to tell the truth. Mr. Rosenblum stated that this is a new application before the Board and would like to offer a site visit of the property. Mr. Rosenblum stated that his client has outgrown their colonial home.

Mr. Rosenblum stated that the property slopes down from Dike Drive to the backyard. This will affect the building height.

Mr. Rosenblum stated that the variance for total impervious surface ratio will be the largest. Holes have been dug on the property. The sub surface rock was found to be so high, that the driveway is unable to be made pervious. This was found late in the planning process. The front yard impervious surface ratio cannot be adjusted because the sidewalk cannot be changed to pervious pavers due to the sub surface rock.

Mr. Rosenblum stated that Paul Gdanski has already engineered a drainage system for this project that includes 6 drywells to handle the drainage.

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

Chairman Schwab asked if anyone from the Board wished to be heard. No one wished to be heard.

Chairman Schwab made a motion to adjourn this application, with a March 6th site visit at 9am, to the March 15th meeting, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

**Item #7 –Public Hearing- Weinstock
9 Van Winkle Road**

Todd Rosenblum, architect for the applicant, was present and affirmed to tell the truth. Mr. Rosenblum stated that this is an existing single-family home that the homeowner would like to add a second level to. In addition, the homeowner would like to add a front porch. As this is an existing home, the porch cannot be pushed back. Mr. Rosenblum stated that a site visit may be helpful in this case.

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

Chairman Schwab asked if anyone from the Board wished to be heard. No one wished to be heard.

Chairman Schwab made a motion to adjourn this matter, with a site visit on March 6th at 9am, to the March 15th meeting, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Approval of Minutes- January 19, 2022

Stefanie Collantes made a motion to approve the minutes of January 19, 2022, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully submitted,
Tara Roberts