

**Village of Wesley Hills
Zoning Board of Appeals
Wednesday, March 15, 2022**

MEMBERS PRESENT:

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

MEMBERS ABSENT:**OTHERS PRESENT:**

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

Chairman Schwab called the meeting to order at 7:44 p.m.

**Item #3 –Continuation of Public Hearing- Braunstein
5 Rochelle Lane**

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 the applicant will remove the swing set to reduce the number of structures by one, to add the cabana. Mr. Mayerfeld went on to state that the impervious surface variance had already been approved so this variance is not needed. Mr. Mayerfeld stated that the rear yard variance is only at the tightest point of the property. Mr. Mayerfeld stated that as you move away the property comes into conformance.

Chairman Schwab asked if the neighbor had withdrawn his objections. Mr. Mayerfeld stated that the neighbor's concern was regarding windows facing their property. This concern has been mitigated. Richard Weinberger confirmed that the applicant addressed the concerns cited in Mr. Zupnik's letter. Mr. Mayerfeld stated that there was foliage on both sides of the property, the structure had no windows facing their property and at this point the neighbor was giving their blessing.

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

Doris Ulman stated that the plans for this project have been revised bringing the side yard from 14.5 feet to 15.5 feet, total side yard to 15.2, rear yard to 15 feet and building coverage from .12 to .116.

Stefanie Collantes asked if the cabana on the left could be removed, as the structure is one.

Dennis Dale stated that the numbers are truly great that are being requested. For example, 15 feet instead of 50 feet. Mr. Mayerfeld stated that this type of variance has been granted in the past.

Randi Marlin asked if there was anything more that could be done to reduce the impervious surface ratio numbers or another variance. Further, Ms. Marlin asked if the structure could be reduced in size. Mr. Mayerfeld stated that if smaller, the structure would be farther away from the property line which would provide less screening.

Stefanie Collantes stated that she appreciated the work that has been done. However, some of the conditions appear to be self-imposed. Unfortunately, Ms. Collantes is not inclined to grant the variances with two cabanas, as this creates such a large rear yard variance.

Mrs. Braunstein stated that originally the pool house was a place to put her babies to sleep. Mrs. Braunstein also stated that this plan protects privacy, is symmetrical, and is aesthetically pleasing. It is, however, possible, for her to collapse the two structures to one.

Stephanie Collantes stated that she believes that what is being requested is excessive.

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

Joseph Zupnik-7 Rochelle Lane

Mr. Zupnik was present and affirmed to tell the truth. Mr. Zupnik stated that he has provided a letter of support of the smaller plan and of the plan that does not have any windows facing his property. Mr. Zupnik stated that if there were just a patio, there would be no noise abatement. Mr. Weinberger asked if there were any violations of the previous neighbor agreement. Mr. Zupnik stated that there were not.

Dennis Dale stated that he believed that the applicant was overdeveloping the property, evidenced by the number of variances sought in the past and the number of variances currently being sought. Mr. Dale stated that the rear yard variance is a 70% request over the Code. Mr. Dale stated that leniency may be needed, however he believes more work needs to be done to mitigate the needs of this project.

Doris Ulman asked if this was the final offer from the applicant. Mr. Mayerfeld stated that he would need to get input from the applicant.

Chairman Schwab made a motion to adjourn this matter to the April 13th meeting, seconded by Dennis Dale. Upon vote, this motion carried unanimously, with Carole Anderson and Stefanie Collantes abstaining.

Item #4 –Continuation of 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 some of the variances have been reduced or eliminated since the project began and that a site visit had been conducted.

Richard Weinberger asked if the applicant agreed to comply with the Rockland County Department of Planning letter. Mr. Rosenblum stated that the applicant does not agree. Mr. Rosenblum stated that the Planning letter states that the residence is approximately 13,000 square feet, when the applicant stated the residence is 9,000 square feet.

Chairman Schwab stated that there is a concern that this residence will become a bed and breakfast. Mr. Rosenblum stated that there was no truth to this. Chairman Schwab stated that the fact that there are 14 bedrooms in the house sparked the concern. Randi Marlin stated that there was no basis for this accusation. Mr. Rosenblum stated that the accusation was insulting.

Mr. Rosenblum stated that he agreed to comply with the review letters from Rockland County Sewer, Highway, and Health.

Carole Anderson asked if the Zoning Board could approve against the advice of Rockland County Department of Planning. Doris Ulman stated that they could with a super majority vote and reasons for the override.

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

Todd Rosenblum stated that the Rockland County Department of Planning utilized the square footage of the first floor, second floor, basement, garage and pool to arrive at their calculation for square footage.

Randi Marlin made a motion to approve this application, with overrides of paragraph 1, 2, 3, and 4 of the Rockland County Department of Planning letter. This approval is subject to the applicant addressing the drainage issues and complying with the conditions set out in the Rockland County letters, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Marilyn Kramer
Premises situated on the bulb of the cul de sac
Of Dike Drive, known as 23 Dike Drive, designated
On the Tax Map as Section 41.06 Block 1 Lot 47,
In an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Marilyn Kramer 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

single family residence having rear yard of 47.4 feet instead of the minimum required of 50 feet, impervious surface ratio of .293 instead of the maximum permitted of .20, front yard impervious surface ratio of .155 instead of the maximum permitted of .15, building coverage of 15.21% instead of the maximum permitted of 13.16% and exposed building height of 42 feet instead of the maximum permitted of 40 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on February 16, 2022, which hearing was continued on March 15, 2022, and

WHEREAS, the applicant appeared by her architect, and testified as follows:

That the applicant has a large family and needs the space for overnight accommodations for her children and grandchildren;

That the square footage of the residence includes an enclosed in-ground swimming pool which accounts for more than one thousand square feet of the residence;

That the enclosed swimming pool prevents noise and other impacts on adjoining properties and on the neighborhood;

That the requested exposed building height variance is caused by the topography of the land and is only visible from the rear of the property;

That a portion of the basement is below grade and averages less than 6 feet above grade so that the basement is not considered a full story so that the residence is only 2 ½ stories and complies with the height requirement of the Village Code;

That applicant has intended to use pervious pavers in order to reduce the impervious surface ratios but there is not sufficient soil to permit the pavers to drain properly; as a result the applicant's engineer has designed a drainage system to retain water on site and will comply with any additional requirements of the Village Engineer; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the topography of the land and the proposed placement of the residence, and

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

WHEREAS, members of the Zoning Board of Appeals asked applicant to reconsider some of the variances and applicant has revised the plan to eliminate the rear yard variance by eliminating the rear deck, to eliminate the front yard impervious surface ratio variance by reducing the size of the driveway and to reduce the impervious surface ratio to 26.4% by eliminating the bocce court and terrace, a portion of the driveway, elimination of one sidewalk and one set of exterior stairs,

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 Marilyn Kramer 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 having building coverage of 15.21% instead of the maximum permitted of 13.16%, impervious surface ratio of 26.4% instead of the maximum permitted of 20% and exposed building height of 42 feet instead of the maximum permitted of 40 feet is hereby approved, subject to submission of a drainage system that is acceptable to the Village Engineer, compliance with review letters submitted by the Rockland County Highway Department, Rockland County Sewer District No. 1, Rockland County Environmental Health and Rockland County Planning Department except that the Zoning Board of Appeals hereby overrides Paragraphs 1,2,3, and 4 on the County Planning Department GML review letter dated February 17, 2022 for the following reasons:

1. Several of the requested variances have been eliminated or reduced and the remaining ones are not substantial;
2. The size of the residence is not unusual, particularly considering the fact that the swimming pool, dressing room and bathroom are enclosed and take up one wing of the residence;
3. The applicant has assured the Board that the residence is for the sole use of her family and will not be a bed and breakfast or short term rental facility;
4. The exposed building height can be reduced by raising the grade of the property which, in the Board's opinion, is unnecessary and will not change the height of the building; and be it further

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

1. That at the Board's request, applicant has eliminated or reduced three of the requested variances so that the remaining variances are not substantial;
2. That the requirement that the drainage system be approved by the Village Engineer will assure that any environmental impact resulting from the construction will be addressed;
3. That the size of the residence is compatible with other residences in the neighborhood and will not change the character of the neighborhood;
4. That the benefit to the applicant by granting the variances is substantial and any potential detriment to the neighborhood or to the community has been addressed, and be it further

RESOLVED, that the variances granted to this property on May 16, 2018 are hereby rescinded.

**Item #5 –Continuation of Public Hearing- Weinstock
9 Van Winkle Road**

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 a site visit had taken place at the property. Mr. Rosenblum explained 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. In addition, Mr. Rosenblum stated that the porch is not enclosed.

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.

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

Jonathan Gewirtz made a motion to approve this application, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Sarah Weinstock
Premises situated on the east side of Van
Winkle Road approximately 250 feet north
Of Glenwood Road, known as 9 Van Winkle
Road, designated on the Tax Map as Section
41.11 Block 1 Lot 79, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Sarah Weinstock 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 an addition to a single family residence having a front yard of 45.3 feet instead of the minimum required of 50 feet and front yard impervious surface ratio of .208 instead of the maximum permitted of .20, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on February 16, 2022, which hearing was continued on March 15, 2022, and

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

That this is a second floor addition to an existing single family residence;

That the second floor has exactly the same setbacks as the existing first floor;

That during construction the applicant realized that adding a front porch would make the residence more attractive and would also provide an area of protection from inclement weather;

That the front porch will not be enclosed but will extend into the front yard because the existing house is set back 52.5 feet;

That the existing house was constructed in 1960 and was part of an average density subdivision under the Town of Ramapo with approved side setback of 20 feet and total side setbacks of 41 feet; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the existing conditions, 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 Sarah Weinstock 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 an addition to a single family residence having a front yard of 45.3 feet instead of the minimum required of 50 feet and front yard impervious surface of .208 instead of the maximum permitted of .20 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 feasible alternative to granting the variances because the second floor addition and front porch are placed over the existing single family residence;
3. That the variances will not result in a change in community character but will enhance the existing structure and be aesthetically pleasing;
4. That the benefit to the applicant by granting the variances is substantial whereas no evidence of detriment to adjoining properties or to the community have been identified.

**Item #6 –Public Hearing- Kahan
2 Hunters Run**

Chairman Schwab read the public hearing notice into the record.

Joe Fine, contractor for the applicant, was present and affirmed to tell the truth. Mr. Fine explained that there is currently a small patio in the back of the residence and the homeowner would like to build a deck instead. The deck is proposed at 32x18. The applicant is seeking a rear setback of 32 feet, instead of the 50 feet required.

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.

Jonathan Gewirtz made a motion to adjourn this matter to the April 13th meeting, with a site visit on April 10th at 9am, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

Item #7 –Public Hearing- Hager 2 Deerwood Road

Chairman Schwab read the public hearing notice into the record.

Stanley Mayerfeld, architect for the applicant, and Rabbi Lipa Hager, homeowner, were present and affirmed to tell the truth.

Stanley Mayerfeld stated that there is a need for a variance because this is a corner house and because of the slope of the property. Mr. Mayerfeld stated that in the design stage the applicant had inquired about the driveway on Deerwood or Willow Tree. The Code Enforcer had approved the design at the time. At a similar time, a new Village code went into effect regarding the placement of a driveway.

Chairman Schwab asked if the residence was going to become a shul. Mr. Mayerfeld stated that there was no conversation about that at this time.

Rabbi Hager stated that the house is smaller than code and that the deck is included in the coverage number because it is larger than 3 feet. Rabbi Hager went on to discuss that how to calculate the average existing grade has been a question and a TAC meeting was conducted. It was decided that an interpretation of the code was needed. Rabbi Hager stated that he is requesting an interpretation of the code regarding average existing grade and the location of the driveway. In addition there are variances needed for front yard, building height and building coverage.

Doris Ulman, esq. stated that the Village Engineer has concerns about the driveway being placed on E. Willow Tree Road because of the proximity to the intersection and to Mark Drive. Ms. Ulman asked if it would be possible to move the home back on the property. Rabbi Hager stated that he is concerned about there being less backyard for his children to play on. Ms. Ulman requested that when the Board visits the property the backyard be staked out showing what the backyard would look like if it were shifted back.

Richard Weinberger asked if the applicant had received the letter from the neighbor. Rabbi Hager responded that the neighbor did not understand that the issue was truly the front staircase. He has spoken with the neighbor, they now understand and are in support of the project. Rabbi Hager went on to say that there are other neighbors that are concerned about the location of the driveway, however it is only a single car garage.

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

Chairman Schwab asked if anyone from the public wished to be heard.

Frady Makowsky-9 Deerwood Road

Ms. Makowsky was present and affirmed to tell the truth. She stated that she has lived in her home for 21 years. She believes that Mr. Hager would be an asset to the neighborhood, in addition to his family. Ms. Makowsky stated that the whole block is an issue with driveways and wondered why Rabbi Hager's was a greater issue.

Chani Norman-6 Rochelle Lane

Ms. Norman was present and affirmed to tell the truth. Ms. Norman stated that she has lived around the corner from Rabbi Hager's property for 18 ½ years. Shae stated that driveway safety needs to be reviewed and that perhaps a driveway on East Willow Tree Road in addition to Deerwood would be a solution.

Henoch Cohn-14 Charlotte Drive

Mr. Cohn was present and affirmed to tell the truth. He stated that this property is next door to another shul and perhaps the addition of a shul at Rabbi Hager's residence would be an asset.

Michael Makowsky-9 Deerwood Road

Mr. Makowsky was present and affirmed to tell the truth. Mr. Makowsky stated that Rabbi Hager will be a fine contribution to the neighborhood.

Rabbi Hager provided multiple letters of support to the Board.

Dr. Kurtz-12 Deerwood Road

Dr. Kurtz was preset and affirmed to tell the truth. Dr. Kurtz stated that he is concerned about the safety of the placement of the driveway.

Richard Weinberger asked if the Brooker letter from December had been addressed by the applicant. Mr. Hager stated that he will comply with the items in this letter and make changes accordingly. A written response will be provided to Brooker's letter prior to the site inspection.

Jonathan Gewirtz made a motion to adjourn this matter to the April 13th meeting, with a site visit scheduled for April 10th at 9a, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

Approval of Minutes- February 16, 2022

Stefanie Collantes made a motion to approve the minutes of February 16, 2022, seconded by Carole Anderson. Upon vote, this motion carried with Richard Weinberger abstaining.

Respectfully submitted,
Tara Roberts