

**Village of Wesley Hills
Zoning Board of Appeals
Wednesday, May 18, 2022
7:30 P.M.**

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Randi Marlin, Ad Hoc

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 –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 variance that was originally sought for maximum impervious surface ratio is no longer required, as it has been reduced. In addition, Mr. Mayerfeld stated that this project had garnered sensitivity from the neighbors and that the concern of the direct neighbor has been resolved. Mr. Mayerfeld prepared and provided three potential layouts for the property for the Board to review. Ms. Ulman asked how much room is added in these alternative plans. Mr. Mayerfeld stated that minimal area was added.

Chairman Schwab asked if anyone from the Board wished to be heard. Richard Weinberger asked that Mr. Mayerfeld clarify what the variances were being sought. Mr. Mayerfeld stated that the applicant was seeking:

- Rear yard-15 feet
- Minimum side yard-15 feet
- Minimum total side yard-49.7 feet
- Maximum building coverage-.12
- Additional accessory structure

Chairman Schwab asked if anyone from the public wished to be heard. Jack Nulman from 14 Glenbrook Road was present and affirmed to tell the truth. Mr. Nulman inquired as to why the cabana could not be made smaller. Chairman Schwab stated that over the past few meetings, there had been much conversation about options for making the cabana smaller and additional

options were presented. It was decided that the current option is best. Dennis Dale asked what the approximate size of the cabana. Stanley Mayerfeld stated that it was approximately 500 square feet.

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

Jonathan Gewirtz stated that the current plan does not encroach on the neighbors, allows for privacy, helps address noise concerns, is visually beneficial to the neighbors, and best addresses the concerns created by the amount of property used for the geo-thermal cooling system. With these items in mind, Mr. Gewirtz made a motion to approve the application, seconded by Carole Anderson (who had withdrawn her abstention/recusal). Upon vote, this motion passed with Stefanie Collantes abstaining.

In the Matter of the Application of
Shalom and Eliana Braunstein
Premises situated on the west side of Rochelle Lane,
Approximately 410 feet north of East Willow Tree Road,
Known as 5 Rochelle Lane, designated on the Tax map as
Section 41.08 Block 2 Lot 58.3 in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Shalom and Eliana Braunstein for variances from the provisions of Sections 230-17 Attachment I and 230-140O(6) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana and pergola having a side yard of 14.5 feet instead of the minimum required of 25 feet, total side yard of 49.7 feet instead of the minimum required of 60 feet, rear yard of 15 feet instead of the minimum required of 50 feet, building coverage of .12 instead of the maximum permitted of .10, impervious surface ratio of .35 instead of the maximum permitted of .25 and to permit 5 accessory structures instead of the maximum permitted of 2 such structures, and

WHEREAS, after due notice, a public hearing was held by the Zoning Board of Appeals on said application on the 19th day of January, 2022, which hearing was continued on February 16, 2022, March 15, 2022, April 13, 2022 and May 18, 2022, and

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

That applicants had originally appeared before the Zoning Board of Appeals in 2017 and 2018 and had applied for variances for the swimming pool, cabana, fence and generator;

That at that time the cabana was proposed at two stories;

That the applicants withdrew the request for the cabana because of noise and visual concerns raised by the neighbors;

That at the request of the neighbors applicants are now proposing a one story cabana separated in the middle by a pergola;

That the proposal will help buffer the noise and eliminate the visual concerns;

That the variances are needed because the major portion of the rear lawn contains geothermal wells that cannot have structures on top of them;

That at the request of the Zoning Board of Appeals, the applicants have installed some pervious pavers and have removed one accessory structure so that the request for the impervious surface variance has been removed and they are now proposing 4 accessory structures instead of 5; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the location of the geothermal wells and the proposed structures; and

WHEREAS, several neighbors appeared in support of the application and no one appeared in opposition;

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 Shalom and Eliana Braunstein for variances from the provisions of Sections 230-17 Attachment I and 230-14O(6) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana and pergola having side yard of 15 feet instead of the minimum required of 25 feet, total yard of 49.7 feet instead of the minimum required of 60 feet, rear yard of 15 feet instead of the minimum required of 50 feet, building coverage of .12 instead of the maximum permitted of .10 and to permit 4 accessory structures instead of the maximum permitted of 2, is hereby approved, and be it further

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

1. That although the setback variances are substantial, they are necessary in order to create the best noise and visual protection for the neighbors;
2. That the variances would not have been necessary if the geothermal wells had not been installed, but the geothermal system is good for the environment and helps control climate change;
3. That the variances will not result in a change in the character of the neighborhood nor a detriment to neighboring properties;
4. That the benefit to the applicants by granting the variances is substantial whereas no detriment to adjoining properties or to the community has been identified.

**Item #4 –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.

Doris Ulman stated that on April 26, 2022 the Zoning Board decided on multiple variances for this project with one remaining, if two (2) curb cuts would be permitted. After reviews by the Village Engineer, Jonathan Gewirtz and herself of the Village Code, it was determined that there was no prohibition against 2 curb cuts. It was further found that there was no need to consider a variance on this item.

**Item #5 –Continuation of the Public Hearing- Shimmy Enterprises Inc. on behalf of RR
Investment 2012 LP and Judith Lane LLC.
15 and 17 Judith Lane**

Chairman Schwab read the public hearing notice into the record.

Paul Baum, attorney for the applicant, was present and affirmed to tell the truth. Mr. Baum stated that a supplemental narrative had been provided to the Board to clarify the lot line and ownership changes. In addition, Mr. Baum stated that a new landscaping plan had been provided to the Board which showed the fence on top of the wall. Mr. Baum stated that the fence was not visible from the neighbor to the south because of screening. Jonathan Gewirtz asked if the thirteen (13) foot height was going to be even around the entire area. Mr. Baum stated that only a portion of the fence is on the retaining wall; that a good portion of the fence is only 10 feet in height.

Paul Baum stated that letters from the neighbors have been submitted. Mr. Baum mentioned that Mr. Rieder attempted to contact Mrs. Fialkoff about her concern but was unable to reach her.

Chairman Schwab asked if anyone from the Board wished to be heard. Doris Ulman asked when this application was before the Planning Board. Mr. Baum confirmed that they will be before them on May 25, 2022.

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

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

Chairman Schwab made a motion to approve this application subject to approval by the Planning Board and implementation of the landscaping plan, seconded by Stefanie Collantes. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Shimmy Enterprises Inc. On behalf of
RR Investment 2012 LP and Judith Lane LLC
Premises situated on the south side of Judith Lane
East of Martha Road, known as 15 and 17 Judith Lane,
Designated on the Tax Map as Section 41.18 Block 1
Lots 24 and 25, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Shimmy Enterprises on behalf of RR Investment 2012LP and Judith Lane LLC for a variance from the provisions of Section 230-14L(3) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a fence having a height of 13 feet instead of the maximum permitted of 8 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on the 13th day of April, 2022, which hearing was continued on May 18, 2022, and

WHEREAS, the applicant appeared by its attorney, who testified as follows:

That a lot line disclaimer was obtained by the applicant and the two lots are now one lot with the tax lot designation of Tax Lot 24;

That applicant has an application before the Wesley Hills Planning Board for a Special Permit for a 7200 square foot tennis court and for a waiver of certain impervious surface requirements;

That a portion of the fence that surrounds the tennis court will be constructed above a three foot wall;

That most of the fence will be 10 feet in height but the portion on the wall will be 13 feet in height, and for both heights a variance is needed;

That the Zoning Board of Appeals has often granted 10 foot high fences surrounding tennis courts and basketball courts, recognizing the need to contain errant balls within the confines of the sports court;

That applicant is proposing substantial screening so that the height of the fence will not be visible from the adjacent property or from the street; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the placement of the fence and screening, and

WHEREAS, several letters were received in support of the application and one neighbor appeared in opposition,

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 Shimmy Enterprises Inc. On behalf of RR Investment 2012 LP and Judith Lane LLC for a variance from the provisions of Section 230-14L(3) to permit the construction, maintenance and use of a fence on a 3 foot wall having a height of 13 feet instead of the maximum permitted of 8 feet is hereby approved, subject to approval of the tennis court and the waiver of impervious surface by the Wesley Hills Planning Board and subject to compliance with a landscaping plan approved by the Wesley Hills Planning Board, 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 in relation to the requirement, it is a necessary height in order to prevent errant balls from leaving the sports court and falling onto adjacent properties or onto the street;
2. That there will be no change in the character of the neighborhood in that many houses in Wesley Hills have swimming pools, sports courts and fences surrounding the sports courts;
3. That the benefit to the applicant by granting the variance will be substantial whereas the only detriment to the neighborhood that has been identified is the size of the sports court, which is not a matter before the Zoning Board of Appeals.

**Item #6 –Public Hearing- Sabel/Keller
27 Holland Lane**

Chairman Schwab read the public hearing notice into the record.

Nechama Keller was present and affirmed to tell the truth. Mrs. Keller stated that she had previously been granted a variance for rear yard of 35 feet but the cabana was not constructed. Mrs. Keller stated that they are now seeking a variance for rear yard of 26 feet. Doris Ulman asked what brought on the change. Mrs. Keller stated that a mistake was made when the pool was constructed. Mrs. Keller stated that their rear property backs up to Wesley Kosher so there would be little impact with this change.

Dennis Dale asked how large the cabana was. Mrs. Keller stated that it is 12' x 18'.

Richard Weinberger asked to confirm that the applicant had received all of the review letters from the Rockland County agencies. The Deputy Village Clerk will work with the applicant to ensure that they have all of the letters. Doris Ulman stated that the Department of Planning letter includes many serious requirements.

Jonathan Gewirtz made a motion to adjourn this item to the June 15, 2022 meeting, with a site visit scheduled for June 12, 2022 at 9:00 A.M., seconded by Chairman Schwab. Upon vote, this motion carried unanimously.

**Item #7 –Public Hearing- TJG Realty of Rockland LLC
15 Glenbrook Road**

Chairman Schwab read the public hearing notice into the record.

Ira Emanuel, attorney for the applicant, was present. Mr. Emanuel noted that when reviewing the language of the public hearing notice, it was found that the information submitted by the applicant was incorrect. With some research it was noted that more than one plan had been submitted to the Village by the applicant, the denial letter was based on the architect's plan, but the more updated engineering plan had not been used to request an updated denial letter. With this said, based on the updated engineering plan new/updated variances are needed. Mr. Emanuel has requested a walk through, a remailing of the notice and then a new date to come back to re-present to the Board.

Mr. Emanuel stated that this is an existing house from the 1960s. Further, Mr. Emanuel stated that this is a farmhouse style home with front gables. Mr. Emanuel had a sketch available, however the appropriate height measurement is not noted.

Doris Ulman stated that the approved setback for side setback was established by Ramapo at 20 feet and 20 feet, for a total of 40 feet total side setback. Mr. Emanuel will work with the Deputy Village Clerk to review the building file and work to reduce the magnitude of the side yard variance.

Richard Weinberger stated that a modified narrative is needed. Mr. Emanuel stated that he will provide one after his review of the file.

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

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

Jeffrey Nulman
14 Glenbrook Road

Mr. Nulman was present and affirmed to tell the truth. Mr. Nulman stated that he is concerned that the new height of the home would block his morning sun. Further, Mr. Nulman stated that in the winter this is the only sun he gets on his property.

Jonathan Gewirtz made a motion to adjourn this matter to the June 15th meeting, with a site visit scheduled for June 12th at 9am, seconded by Dennis Dale. Upon vote, this motion carried unanimously. Mr. Gewirtz and Mr. Emanuel reiterated to the public that site visits are not open to the public.

**Item #8 –Public Hearing- Itzkowitz
3 Camberra 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 was a large property with a small house on it. Further, Mr. Mayerfeld stated that the new owner would like to conduct some renovations on their home, however there are wetlands on the property. Mr. Mayerfeld stated that there is current vegetation that helps to screen the neighbors. Jonathan Gewirtz asked if this was a rebuild or an addition. Mr. Mayerfeld stated that the owners are attempting to keep as much of the existing home as possible. Doris Ulman asked if any part of the addition was in the wetland. Mr. Mayerfeld responded that it was not.

Richard Weinberger stated that the Board had received responses from Rockland County Departments of Health, Drainage, Planning and Highway, in addition to the Town of Ramapo Department of Public Works. Mr. Weinberger requested that Mr. Mayerfeld work with the Deputy Village Clerk to ensure that he had copies of each of these review letters and that he would work with the applicant to ensure that they would be in compliance.

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

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

Margery Rothenberg
1 Camberra Drive

Ms. Rothenberg was present and affirmed to tell the truth. Ms. Rothenberg read a letter that she had prepared. Ms. Rothenberg stated that it is her belief that the applicant has not met the criteria to be granted the variances sought. Ms. Rothenberg believes that there is plenty of room in the rear of the property to build back, instead of out on each side of the home. Ms. Rothenberg said that the approximate seven (7) feet that will be added to each side of the home will make a significant impact on the neighbors to each side of the applicant. Further, Ms. Rothenberg is concerned about the increase in impervious surface causing additional flood risk and would like clarification regarding where the water will go. Ms. Rothenberg stated that the new owners, the Itzkowitz family, were aware of the pool and deck when they bought the home.

Ms. Rothenberg stated that there are current concerns regarding property maintenance at this property. She stated that the lawn has not been cut and that attempts to reach out to Mrs. Itzkowitz have been unsuccessful. In addition, there was a roof leader falling and a neighbor recently paid a handyman to fix it. Overall, Mrs. Rothenberg believes that the proposed additions will change the character of the neighborhood.

Jane Simonson

5 Camberra Drive

Mrs. Simonson was present and affirmed to tell the truth. Mrs. Simonson read a letter that she had prepared. Mrs. Simonson stated that she is a real estate agent. She sees Camberra Drive from an aesthetics and character position. The lots and homes on this street, in her opinion, are spacious and reflect a certain style. Mrs. Simonson also noted the privacy to homeowners on this street, evidenced by the pond, the limited number of homes and the sense of community that has been built while still affording each neighbor privacy. Mrs. Simonson agrees with her neighbor that the additions would be more sensible in the rear of the property to maintain the character of the neighborhood. Mrs. Simonson stated that she had previously had solar panels installed and that her electric bills are currently close to zero (0). Mrs. Simonson is concerned that the additions at 3 Camberra may affect her solar work.

John Wagner 7 Camberra Drive

Mr. Wagner was present and affirmed to tell the truth. Mr. Wagner stated that he had lived in his home for over 30 years and maintaining the character of the neighborhood is important to him.

Barry Bergstein 6 Camberra Drive

Mr. Bergstein was present and affirmed to tell the truth. Mr. Bergstein is concerned about the flavor and character of the neighborhood and is concerned that changing one home will lead to changing many more in the future.

Stanley Mayerfeld stated that the addition on the right side is one story. Mr. Mayerfeld stated that he is happy to review the potential impact to the neighbors' solar panels.

Chairman Schwab stated that the next step would be a site inspection and then a public hearing in June. Chairman Schwab made a motion to adjourn this matter to the June 15th meeting, with a site visit scheduled for June 12th, seconded by Carole Anderson. Upon vote, this motion passed unanimously.

Mr. Mayerfeld stated that he will assist the applicant in having the site staked to identify the wetlands in advance of the visit. Chairman Schwab requested that Mr. Mayerfeld also work with the applicant to maintain the property by cutting the grass and doing things that are neighborly.

Item #9 –Public Hearing- Schwab 94 Wilder Road

Chairman Schwab read the public hearing notice into the record. Chairman Schwab then recused himself and asked that Jonathan Gewirtz chair the meeting. Chairman Schwab then stepped down from the dais and sat in the audience.

Todd Rosenblum stated that he represented Mr. Schwab. They were both present and affirmed to tell the truth. Mr. Rosenblum stated that this application is regarding 94 Wilder Road, which is owned by Mordechai Schwab (owner of both 94 and 96 Wilder Road). Mr. Rosenblum stated that Mr. Schwab has obtained a building permit for a sports court which is less than 2, 500 square feet. Mr. Rosenblum stated that the applicant is seeking a variance to allow a 10 foot fence, as the property backs up to Wilder Road and Route 202. Mr. Rosenblum stated the 10 foot fence is necessary because the sports court is on a hill and errant balls would wind up on Wilder Road or 202.

Mr. Gewirtz asked if anyone from the public wished to be heard.

Dennis Dale made a motion to close the public hearing, seconded by Stefanie Collantes. Upon vote, this motion passed unanimously.

Stefanie Collantes made a motion to approve this application subject to the review from Department of Planning and overriding the review of the Department of Health, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Mordechai Schwab
Premises situated on the east side of Wilder Road
Approximately 100 feet south of State Route 202,
Known as 94 Wilder Road, designated on the Tax
Map as Section 32.14 Block 1 Lot 4.1, in an
R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Mordechai Schwab for a variance from the provisions of Section 230-14L(3) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a fence surrounding a sports court having a height of 10 feet instead of the maximum permitted of 8 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on April 13, 2022, which hearing was continued on May 18, 2022, and

WHEREAS, the applicant appeared with his architect and testified as follows:

That the sports court is on a hill and applicant is concerned that errant balls can roll down to Wilder Road or State Route 202, which is a heavily traveled road;

That an 8 foot fence will not prevent errant balls from leaving the site and will not address the safety hazard;

That the Zoning Board has recognized this problem in the past for other properties and has granted several variances for 10 feet high fences surrounding sports courts; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the configurations of the land on which the sports court will be constructed, and

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

WHEREAS, the GML review letter dated April 4, 2022 from the Rockland County Department of Environmental Health which required a decommissioning of the well on the property was issued in error and an email dated April 11, 2022 from the Department of Environmental Health requiring the installation of a manhole over the well has been substituted,

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 Mordechai Schwab for a variance from the provisions of Section 230-14L(3) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a fence surrounding a sports court having a height of 10 feet instead of the maximum permitted of 8 feet is hereby approved, subject to the following:

1. Compliance with the letter from the Rockland County Planning Department dated April 25, 2022 except that the Zoning Board of Appeals hereby overrides recommendation No.1 of said letter because said recommendation was issued in error;
2. Compliance with the letter from the Rockland County Highway Department dated April 5, 2022;
3. Compliance with the letter from the Rockland County Sewer District No.1 dated march 31, 2022;
4. Compliance with the email from the Rockland County Department of Environmental Health dated April 11, 2022;
5. Compliance with the letter from the Town of Ramapo Department of Public Works dated April 20, 2022, and be it further

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

1. That the variance is not substantial in relation to the requirement, it being only 25% of the requirement;
2. That there is no feasible alternative to granting the variance since the location of the sports court is the best area for the property;
3. That there will be no change in the character of the neighborhood since many properties in the area have sports courts and 10 feet fences surrounding the sports courts;

4. That the benefit to the applicant by granting the variance is substantial and no detriment to neighboring properties or to the neighborhood has been identified.

Approval of Minutes- April 13, 2022 and April 26, 2022

Richard Weinberger made a motion to approve the minutes of April 13, 2022, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to approve the minutes of April 26, 2022, seconded by Richard Weinberger. Upon vote, this motion carried unanimously.

Jonathan Gewirtz made a motion to adjourn the meeting, seconded by Chairman Schwab. Upon vote, this motion carried unanimously.

Respectfully submitted,
Tara Roberts