

**Village of Wesley Hills
Zoning Board of Appeals
Wednesday, April 13, 2022
7:30 P.M.**

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Dennis Dale

Randi Marlin, Ad Hoc (left at 8pm)
Richard Weinberger

MEMBERS ABSENT:

Jonathan Gewirtz-Deputy Chair
Stefanie Collantes, Ad Hoc
Carole Anderson

OTHERS PRESENT:

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

Chairman Schwab called the meeting to order at 7:32 p.m.

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

Chairman Schwab stated that the applicant had requested an adjournment due to travel. Chairman Schwab made a motion to adjourn this application to the May 18, 2022 meeting, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

**Item #8 –Public Hearing- Schwab
94 Wilder Road**

Chairman Schwab read the public hearing notice into the record. Chairman Schwab then recused himself and asked that Richard Weinberger take over the meeting. Chairman Schwab then stepped down from the dais and set 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.

Richard Weinberger asked if the applicant would comply with the following review letters from the County of Rockland:

1. Sewer District-Mr. Rosenblum confirmed yes.

2. Department of Health-Mr. Rosenblum stated that the representative from the Health Department believed that there is a well in the backyard with a well head above ground, when it is in fact below ground. At the applicant's request, his engineer, Paul Gdanski, communicated with the Health Department. As a result, the applicant has been instructed to replace the ell cover and the ladder. Mr. Weinberger requested a copy of the communication between the Health Department and the applicant's engineer and Mr. Rosenblum agreed to provide the documentation.
3. Department of Highways-Mr. Weinberger requested that documentation be provided that the application referenced in the review letter be provided prior to the May 8th site visit. Mr. Rosenblum agreed.

Mr. Weinberger asked if anyone from the public wished to be heard. No one wished to be heard.

Randi Marlin made a motion to adjourn this item to the May 18, 2022 meeting, with a site visit scheduled for May 8, 2022, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Item #4 –Public Hearing- Kahan 2 Hunters Run

Chairman Schwab read the public hearing notice into the record. Mr. Schwab stated that members of the Board had conducted a site visit to this property recently.

Mr. Kahan was present via Zoom. Mr. Kahan stated that he understood how important the trees were to the neighbors and there were no plans to remove any trees. Mr. Kahan affirmed to tell the truth.

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

Doris Ulman stated that prior to the site visit, she had questioned the size of the deck. On site, it was confirmed that the size is required because the kitchen juts out further than the rest of the house (approximately 15 feet) and will take a good portion of the deck.

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 Randi Marlin. Upon vote, this motion carried unanimously.

Richard Weinberger made a motion to approve this application as requested, seconded by Chairman Schwab. Upon vote, this motion carried unanimously.

In the Matter of the Application of
Eliot Kahan
Premises situated at the cul de sac bulb of
Hunters Run, known as 2 Hunters Run, Suffern,

New York, 10901, designated on the Tax Map as
Section 32.19 Block 2 Lot 20.6, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Eliot Kahan 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 deck having a rear yard of 36.2 feet instead of the minimum required of 50 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on March 15, 2022, which hearing was continued on April 13, 2022, and

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

That the only logical place for a deck is at the rear of the house because that is where the kitchen is located;

That the variance cannot be avoided because the kitchen juts out from the rear of the house and is 50 feet from the rear property line; any deck would require a variance;

That to reduce the size of the deck would make it almost unworkable because of the kitchen jut-out, and

WHEREAS, members of the Zoning Board of Appeals visited the site and noted the kitchen jut-out and that tall trees were situated along the rear property line to screen the deck from the neighbor's view, 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 Eliot Kahan 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 deck having a rear yard of 36.2 feet instead of the minimum required of 50 feet is hereby granted, 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, i.e. it is less than 30% of the requirement;
2. That there is no feasible alternative to granting the variance inasmuch as the kitchen is at the rear of the house, where the deck will be situated;

3. That there will be no change to the character of the neighborhood as the deck is in keeping with the single family residential use of the property;
4. That there appears to be no detriment to adjoining properties and there is substantial screening at the rear of the property;
5. That the granting of the variance is of substantial benefit to the applicant and no detriment to adjoining properties or to the neighborhood has been identified.

Item #5 –Public Hearing- Hager 2 Deerwood Road

Chairman Schwab read the public hearing notice into the record. Mr. Schwab stated that members of the Board had conducted a site visit to this property recently.

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 if this were a flat piece of land, the height variance would not be needed.

Doris Ulman stated that the height at each front (as there are two, as this is a corner property) needs to be calculated separately. The applicant states that the Code allows him to average the two heights. Doris Ulman stated that she has already provided her opinion, and that the applicant has requested an interpretation of the definition by the ZBA..

With respect to the other variances, Rabbi Hager stated that he had a meeting with the Building Inspector and the Village Clerk and was informed at that time that there was no code against placing the driveway on East Willow Tree Road. After this conversation, a new code section was added. Rabbi Hager is requesting an interpretation of that section as well.

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.

Richard Weinberger stated that:

1. The minutes from the March Zoning Board of Appeals meeting needed to be reviewed and followed by the Applicant.
2. Wanted to note if the future plans of the site by Rabbi Hager are from its current use as a single family home to a synagogue in the future.
3. Brooker Engineering letter from December 29, 2021 that is attached to Mr. Mayerfeld's narrative needs to be reviewed carefully, responded to and abided by. Mr. Hager stated

that Civiltec had responded to the letter and would work with the Deputy Village Clerk to ensure that the members of the Zoning Board receive the response. Stanley Mayerfeld stated that the Brooker Engineering review was very thorough and 95% of the items were engineering items. Mr. Mayerfeld stated that this review letter supported the referral to the Zoning Board.

Doris Ulman stated that she has reviewed the Brooker Engineering review letter and believes that three (3) items apply to the Zoning Board:

1. #5-definition of average existing grade
2. #6-driveway-this item prompted the review of the driveway and its placement on Deerwood and/or East Willow Tree Road. The Village Engineer recommends the placement of the driveway be on Deerwood and states local law on this matter. Ms. Ulman stated that the driveway needs to be as far removed from an intersection as practical. Randi Marlin asked if the Board could request that a traffic study be done. Doris Ulman stated that this was an option and further that there were companies available to complete this task.

Mr. Hager stated that the law became effective in April 2021. He further stated that other homes have driveways on Willow Tree Road with more cars. Mr. Hager only has one car, as his wife does not drive. Mr. Hager further stated that cars from Mark Drive are a distance from his proposed driveway site.

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

Doris Ulman stated that the third relevant item from Brooker Engineering's review letter was #10-referencing the number of parking spots required. Ms. Ulman stated that the Code requires two indoor parking spots or one indoor and one outdoor. Further, Ms. Ulman stated that residents are not permitted to park in their front yard. Mr. Hager stated that the plans indicate a parking spot on the other driveway, approximately 50 feet from Deerwood Road.

Chairman Schwab stated that there are not enough members of the Board present to vote on this matter, but that the Chairman would work to schedule a meeting before the end of April to hear this application.

Chairman Schwab made a motion to adjourn this matter to April 26th at 7:30 PM, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

**Item #6 –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.

Doris Ulman stated that there were a large number of public hearing notices that were returned to the Village. The applicant will need to resend notices prior to the next ZBA meeting. Paul Baum, attorney for the applicant, was present and affirmed to tell the truth. Mr. Baum stated that

his client was before the Board for a fence, however the original notice went out for impervious surface. A new notice will be needed for this as well.

Mr. Baum stated that Mr. Reider owns both 15 and 17 Judith Lane and that the title for 15 Judith was transferred to the same owner. The lot line waiver has been completed by the Planning Board. Mr. Baum requested that a site visit be scheduled.

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

Doris Ulman stated that the plans show a residence that is a one story framed dwelling. In some parts of the plan, there are references to the structure being two stories. Ms. Ulman requested that prior to the next meeting, this be consistent on the plans.

In addition, Ms. Ulman stated that dimensions are not indicated for the pool house on the plans and asked to have them added to the plans. Further, Ms. Ulman asked what was intended to be in the pool house. Mr. Baum responded that the pool would be in the pool house and that he would inquire about the dimensions of the structure.

Richard Weinberger requested that the letter of objection provided by the neighbor at 22 Judith Lane be addressed prior to the next meeting.

Further, Mr. Weinberger stated that the lot lines should have been presented. Mr. Baum stated that he was not clear about the relevance but there had been a disclaimer and a resolution to take care of it.

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

Iris Fialkoff-22 Judith Lane

Mrs. Fialkoff was present and affirmed to tell the truth. She stated that the subject property is three houses up and on the other side of the road from her residence and then purchased the house next door. She stated that the homeowner built a large house and has a pool. Mrs. Fialkoff stated that she believes that the proposed work will be a detriment to the neighborhood due to the noise and the ten (10) foot fence.

Mrs. Fialkoff stated that she has lived in her home since 1967. She stated that it is a quiet street that is just one block long. In addition, Mrs. Fialkoff noted that she does not understand the need for this hugesport court, as there are tennis courts, baseball fields and a hand ball court available 3 blocks away.

Chairman Schwab made a motion to adjourn this matter to the May 18, 2022 meeting, with a site visit scheduled for May 8th, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

**Item #7 –Public Hearing- Sabel/Keller
27 Holland Lane**

Chairman Schwab stated that the applicant had requested an adjournment due to travel. Chairman Schwab made a motion to adjourn this application to the May 18, 2022 meeting, seconded by Dennis Dale. Upon vote, this motion carried unanimously.

Approval of Minutes- March 15, 2022

Dennis Dale made a motion to approve the minutes of March 15, 2022, seconded by Chairman Schwab. Upon vote, this motion carried unanimously.

Respectfully submitted,
Tara Roberts