

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, August 22, 2018**

MEMBERS PRESENT:

Richard Weinberger, Chairman
Carole Anderson
Dennis Dale
Jonathan Gewirtz

MEMBERS ABSENT:

Jan Hilgeman
Randi Marlin, Ad Hoc
Mordechai Schwab, Ad Hoc

OTHERS PRESENT:

Doris Ulman, Assistant Village Attorney
Camille Guido-Downey, Village Clerk

Richard Weinberger, Chairman called the meeting to order at 8:06 p.m.

Item #3

Congregation Sha'ar Hashamayim-Continued Public Hearing

Elliot Lasky, applicant's Representative was affirmed to tell the truth and stated that there was a site visit on Sunday, August 19, 2018. Mr. Lasky stated that the Congregation has received a negative declaration from the Planning Board and is ready to proceed with the requested variance for impervious surface. Mr. Lasky stated that this variance will not have an undesirable change in the character of the neighborhood, no substantial change, there is no other way to achieve this request and there will be adverse impacts to the neighborhood.

Jonathan Gewirtz questioned how many feet will the Applicant be excavating into the hill?

Elliot Lasky answered approximately 20 feet. Mr. Lasky stated that the number of parking spaces is being increased, eliminating the double stacking situation that currently exists, healthier circulation of traffic on site, they have received a positive review from the Village's Fire Inspector, and the site will have a full drainage system upgrade along with lighting upgrades.

Doris Ulman questioned if the Applicant will need to blast part of the hill/mountain?

Mr. Lasky answered no.

Chairman Weinberger read the following letters of support into the record:

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| 1. Neuberger, 2 Mark Drive | 3. Abikzer, 6 Mark Drive |
| 2. Zelmanovic, 4 Mark Drive | 4. Sternhell, 3-4 Tamrak Drive |

Doris Ulman stated that if the Board wishes to approve the application it should be subject to Planning Board site plan and special permit approval.

No one from the public wished to speak.

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

Jonathan Gewirtz stated that the request for the impervious surface variance is the only way to achieve the needed parking and that the new drainage improvements that are proposed will achieve zero-net run off. The benefit to the community is a win as with the expansion of the parking lot it allows for a safer roadway and pedestrian traffic as the cars are not parking on the roadway.

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Dennis Dale:

**In the Matter of the Application of
Congregation Sha'ar Hashamayim
Premises situated on the south side of East
Willow Tree Road 0 feet east of Rochelle Lane
known as 71 East Willow Tree Road, designated
on the Tax Map as Section 41.12, Block 2 Lot 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 Congregation Sha'ar Hashamayim for a variance from the provisions of Sections 230-26(G) (1) (c) and 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 parking area for a Neighborhood Gathering having impervious surface ratio of .49 instead of the maximum permitted of .25, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on the 25th day of July, 2018 and continued on the 22nd day of August, 2018, and

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

That the facility is a Neighborhood Gathering as defined in the Wesley Hills Zoning Law;

That the Congregation received site plan approval and special permit from the Wesley Hills Planning Board in 2009 and has been conducting services and related events since 2011;

That the Congregation has grown and there are now many instructional as well as social events that occur on a regular basis;

That the existing parking lot is inadequate, resulting in a safety issue with people parking on East Willow Tree Road as well as on adjacent properties;

That applicant is proposing to increase the number of spaces from 41 to 53 with adequate driving aisles;

That there is sufficient room for the additional parking at the rear of the property which will not impact any of the neighbors;

That applicant has submitted a drainage plan and a revised lighting plan which have been accepted by the Village Engineering Consultant, and

WHEREAS, several neighbors appeared and testified as to the need for the additional parking and letters in support were received from nearby property owners; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the existing parking conditions and the area for the proposed additional parking, and

WHEREAS, the Wesley Hills Planning Board, as Lead Agency for SEQRA purposes, has determined that the proposed action will not have a significant adverse impact on the environment,

NOW, THEREFORE, BE IT RESOLVED, that the application submitted by Congregation Sha'ar Hashamayim for a variance from the provisions of Sections 230-26(G) (1) (c) and 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 parking area for a Neighborhood Gathering having impervious surface ratio of .49 instead of the maximum permitted of .25 is hereby approved, subject to compliance with revised site plan and special permit approval to be obtained from 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 it is necessary in order to resolve safety issues that now exist as a result of having insufficient on-site parking;
2. That there is no feasible alternative to the variance since there is no other place to provide parking for the Congregation;
3. That there will be minimal detriment to adjoining properties or to the neighborhood since the parking will be placed at the rear of the property, which does not impact on adjoining neighbors;
4. That the Wesley Hills Planning Board, as Lead Agency, has determined that there will not be significant adverse environmental or ecological impacts on the neighborhood;
5. That the Congregation is a house of worship and is entitled to the "special status" review required by the New York State Court of Appeals;
6. That the benefit to the applicant by granting the variance is great whereas there will be minimum detriment to the neighborhood or the community.

Upon vote, this motion carried unanimously.

Item #4
Congregation Derech Emes-Continued Public Hearing

Israel Nachfolger, 3 Villa Lane was present and affirmed to tell the truth. Mr. Nachfolger stated that he was asked to represent the congregation tonight. There was a site visit on Sunday, August 19, 2018 and the Congregation has received a negative declaration from the Planning Board and is ready to proceed with the requested variances. Mr. Nachfolger described the requested four variances:

1. The shed is pre-existing and has been onsite for over 20 years. The congregation purchased the property with the shed on it over six years ago. The shed is currently being used for storage. The requested variance is for an accessory building having side yard of 3.6 feet instead of the minimum required of 8.33 feet.
2. In trying to keep privacy to the congregation and the neighbors, the addition and the parking lot was designed to be placed behind the existing home which triggered a side yard variance of 20 feet instead of minimum required of 25 feet.
3. The two impervious surface variances are due to the parking lot, addition and walkway. The parking lot is needed to park the current cars. There is a safety concern as the congregants park their cars on the street and walk to the congregation. The drainage that has been approved by the Village Engineer requires a zero-net run off system which will be placed under the parking lot.

The Application has a landscaping plan to maximize the privacy of the neighbors and the congregation. There is also an existing fence that will remain, provide privacy and block headlights. There is a minimal visual impact from the roadway as the parking lot is located in the rear of the property behind the house.

Jonathan Gewirtz stated that the Rockland County Highway memo dated 7/3/18 states that the walkway is unsafe and not acceptable.

Yaakov Mittel, Applicant's Representative was present and affirmed to tell the truth and stated that he has meet with the County Highway and the first three feet of the walkway closest to Wilder Road will be removed as it is located in the County right-of-way.

Doris Ulman stated that the County GML dated 7/12/18 comment #6 requests the use of pervious pavers or other material to reduce the variance request, has the Applicant considered this?

Yaakov Mittel answered that it is not feasible as it is not cost efficient, fire truck and emergency vehicles are too heavy vehicles, material is not strong enough to hold the outriggers, and wheel chair access on the walkway would be a concern as pavers settle over time.

Chairman Weinberger read the following letters of support into the record:

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| 1. 11 Dike Drive | 4. 36 Wilder Road |
| 2. 32 Wilder Road | 5. 49 Wilder Road |
| 3. 35 Wilder Road | 6. 38 Wilder Road |

7. 2 Wilder Road

8. 29 Wilder Road

Chairman Weinberger stated that the following agency review letters were received and will be a condition of approval:

1. Rockland County Highway letter dated 7/3/18.
2. Rockland County Planning GML letter dated 7/12/18.
3. Rockland County Health Department letters dated 7/11/18 & 8/20/18.
4. Rockland County Sewer District #1 letters dated 7/24/18 & 8/20/18.

Doris Ulman stated that if the Board wishes to approve the application it should be subject to Planning Board site plan and special permit approval.

No one from the public wished to speak.

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

Jonathan Gewirtz stated that since the shed is existing and the fence is going to remain for privacy the requested variance is minimal. The impervious surface variances are large however for the safety of the users and the Village in order to have a parking lot this is a benefit to the Village and the community. The walkway will be reduced in length and will slightly reduce the variance request.

Jonathan Gewirtz made a motion to approve the following resolution, seconded by Dennis Dale:

**In the Matter of the Application of
Congregation Derech Emes
Premises situated on the east side of Wilder Road
approximately 228 feet north of Carter Lane, known
as 34 Wilder Road, designated on the Tax Map as
Section 41.10, Block 2 Lot 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 Congregation Derech Emes for variances from the provisions of Section 230-26(G)(1)(c) and 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 Neighborhood Gathering and related parking having side yard of 20 feet instead of minimum required of 25 feet, impervious surface of .61 instead of the maximum permitted of .25 and front yard impervious surface of .24 instead of the maximum permitted of .20 and from the provisions of Section 230-14(O)(3) to permit the maintenance and use of an accessory building having side yard of 3.6 feet instead of the minimum required of 8.33 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on July 25, 2018, which hearing was continued on August 22, 2018, and

WHEREAS, the applicant appeared by its representatives and by its architect, who testified as follows:

The existing building is a two family residence that is also used by the congregation as a Neighborhood Gathering pursuant to the Wesley Hills Zoning Law;

Applicant is proposing a 3200 square foot addition to the existing building for a sanctuary, library, bathrooms, a warming kitchen and related uses plus a parking lot for 40 vehicles in addition to the 2 parking spaces for residents of the dwelling unit;

That the existing building will continue to be used as a residence and the addition will address the needs of the congregation for additional space;

That the parking spaces are necessary in order to keep cars from parking on Wilder Road, which would create a safety problem since Wilder Road is a heavily travelled, County Road;

That the accessory building has always been in its present location but did not need a variance when it was originally constructed and will be used by the residents for storage, and

WHEREAS, several property owners in the neighborhood submitted letters in support of the application, and no one appeared in opposition to the application, and

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

WHEREAS, the Wesley Hills Planning Board, as Lead Agency pursuant to SEQRA, has determined that the proposed action will not have a significant adverse impact on the environment,

NOW, THEREFORE, BE IT RESOLVED, that the application submitted by Congregation Derech Emes for variances from the provisions of Section 230-26(G)(1)(c) and 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 for a Neighborhood Gathering with related parking having a side yard of 20 feet instead of minimum required of 25 feet, impervious surface of .61 instead of the maximum permitted of .25, front yard impervious surface of .24 instead of the maximum permitted of .20 and from the provisions of Section 230-14(O)(3) to permit an accessory structure having side yard of 3.6 feet instead of the minimum required of 8.3 feet is hereby approved, subject to the following conditions:

1. Compliance with Rockland County Highway Department letter dated July 3, 2018 with an amendments to the letter that may be made by the Highway Department;
2. Compliance with Rockland County Planning Department GML review letter dated July 12, 2018 by the Zoning Board overrides paragraph 6 of said letter for the reasons that pervious pavers are not cost effective for the Congregation, the pavers require continuous maintenance in order to retain the pervious quality, the Board does not

- have sufficient information to determine if the pavers have the strength to hold heavy fire trucks and over time the surface may become difficult for wheelchair use;
3. Compliance with Rockland County Sewer District No. 1 letters dated July 24, 2018 and August 20, 2018;
 4. Compliance with Rockland County Health Department Environmental Health letters dated July 11, 2018 and August 20, 2018;
 5. Compliance with site plan and special permit approvals from 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 the applicant is a house of worship and is entitled to “special status” review as required by the New York State Court of Appeals;
2. That although the impervious surface ratio variances are substantial, the parking areas on site are required to prevent potential safety hazards from the parking of vehicles on Wilder Road, which is a heavily travelled County Road;
3. That the landscaping plan proposed by the applicant will reduce impacts on adjacent properties;
4. That the Wesley Hills Planning Board has determined that the proposed project will not have a significant adverse impact on the environment or the ecology;
5. That the benefit to the applicant by granting the variances is great whereas any potential detriment to surrounding properties or to the neighborhood has been mitigated.

Upon vote, this motion carried unanimously.

Item #5
Approval of Minutes – June 20, 2018

Richard Weinberger made a motion to approve the Zoning Board of Appeals Minutes of June 20, 2018 seconded by Jonathan Gewirtz. Upon vote, this motion carried unanimously.

Approval of Minutes – July 25, 2018

Jonathan Gewirtz made a motion to approve the Zoning Board of Appeals Minutes of July 25, 2018 seconded by Dennis Dale. Upon vote, this motion carried unanimously.

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

Respectfully Submitted,
Camille Guido-Downey