

**Village of Wesley Hills
Zoning Board of Appeals
Wednesday, February 15, 2023
7:30 P.M.**

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Dennis Dale
Carole Anderson
Randi Marlin, Ad Hoc

MEMBERS ABSENT:

Jonathan Gewirtz
Richard Weinberger
Stefanie Collantes-Bouvry, Ad Hoc

OTHERS PRESENT:

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

Chairman Schwab called the meeting to order at 7:36 p.m.

**Item #3 –Continued Public Hearing- Ulano
7 Cutler Court**

Chairman Schwab read the public hearing notice into the record. James Licata, attorney for the applicant, was present. Chairman Schwab stated that several Board members had made a site visit. Mr. Licata stated that, based on the revised plan, if the Board requested a second site visit, the applicant would make himself available.

Mr. Licata read the revised a narrative into the record. Mr. Licata stated that the original structure was proposed to be 1,522 square feet. The revised plan references a structure of 649 square feet. Mr. Licata stated that with this revision, no building coverage variance is now needed.

Doris Ulman stated that due to the revision of the plan, this project had to go out for a second GML review and the response letters have not been received.

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

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

Chairman Schwab made a motion to adjourn this application to the March 15, 2023 meeting at 7:30 P.M. while the applicant awaits the review letters from the County agencies, seconded by Carole Anderson. Upon vote, this motion carried unanimously. (4-0)

**Item #4 –Continued Public Hearing- Congregation Trisk Tolna
33 Glenbrook Road**

Chairman Schwab read the public hearing notice into the record. Chairman Schwab stated that the applicant has not yet received a negative declaration from the Wesley Hills Planning Board. Randi Marlin made a motion to adjourn this application to the March 15, 2023 meeting at 7:30 P.M. , seconded by Dennis Dale. Upon vote, this motion carried unanimously. (4-0)

**Item #7 –Public Hearing- Kenneth and Beth Rozenberg
531 NY Route 306**

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 is an odd lot. The property is in an R-50 zone but is an undersized lot. Mr. Mayerfeld noted that if this property were in an R-35 zone, this yard would be more compliant. Mr. Mayerfeld stated that the proposed underground hockey rink is below grade and will not be visible from the street. The Town of Ramapo established total site setback at 60 feet when the original house was built.

Chairman Schwab stated that the Board members had recently conducted a site visit at this site. Further, Chairman Schwab asked for clarification on if the applicant was proposing an ice or roller rink. Mr. Mayerfeld replied that this is intended to be a roller rink.

Doris Ulman stated that the Rockland County Department of Planning review letter approved this project.

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

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

Randi Marlin made a motion to approve this application, seconded by Dennis Dale. Upon vote, this motion carried unanimously. (4-0)

In the Matter of the Application of
Kenneth and Beth Rozenberg
Premises situated on the west side of State
Route 306, approximately 800 feet north of
Lime Kiln Road, known as 531 N.Y. Route 306,
Designated on the Tax map as Section 41.07 Block 1,
Lot 21, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Kenneth and Beth Rozenberg 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 total side yards of 70 feet instead of the minimum required of 75 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on January 18, 2023, which hearing was continued on February 15, 2023, and

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

That applicant intends to construct a new single family residence;

That although each side yard conforms to the 30 foot requirement of the Zoning Law, the total side yard is only 70 feet;

That the lot is only 35,506 square feet in an R-50 Zoning District;

That the lot was created and the original residence constructed prior to the incorporation of the Village and the Town of Ramapo Building Department, recognizing that the lot was undersized for the district, established setbacks at 20 foot side yard and 60 foot total side yard;

That the current proposal is for a 70 foot side yard but applicant is requesting a variance in the event the Village does not accept the Ramapo 60 foot requirement;

That almost half of the north side of the residence, where the variance is requested, is completely underground and will not be visible from the exterior of the house; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the area of the proposed residence, and

WHEREAS, no one appeared in opposition to the application and applicant 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 Kenneth and Beth Rozenberg 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 total side yard of 70 feet instead of the minimum required of 75 feet is 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, it being less than 20% of the requirement;
2. That the only feasible alternative would be to reduce the width of the residence, which is not reasonable due to the fact that the residence is only one story;
3. That the Town of Ramapo originally set the total side yard requirement at 60 feet so that it is questionable if a variance is required since the proposed residence will comply with the 60 foot side yard requirement;

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

**Item #9 –Public Hearing- Asher and Aliza Goldbrenner
19 Astor Place**

Chairman Schwab read the public hearing notice into the record. Asher Goldbrenner, applicant, was present and affirmed to tell the truth. Mr. Goldbrenner stated that he was before the Board to request two variances for his project. Mr. Goldbrenner stated that his home is in the center of his property and he is hoping to remain in the house while the extension is being constructed. In addition, Mr. Goldbrenner stated that although he would prefer to not make his driveway any steeper, an alternative has not been possible.

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

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

Dennis Dale made a motion to adjourn this application to the March 15, 2023 meeting with a site visit March 12th, seconded by Randi Marlin. Upon vote, this motion carried unanimously. (4-0)

**Item #8 –Public Hearing- Martin Neiman
24 Pomona Lane**

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 structure is to be used for applicant's hobbies as a paint studio, workshop, exercise and recreation area and for his car hobby to keep the cars indoors and not on the exterior of the property. Further, Mr. Rosenblum stated that this site is a charming quaint farmhouse whose porches would be blocked with an addition. However, this property has more than enough land for a structure of this size.

Mr. Rosenblum stated that the average lot in Wesley Hills is 35,000 square feet. Mr. Neiman's lot is approximately 130,000 square feet. However, based on the Village Code, Mr. Neiman is only allowed the same 900 square foot accessory structure as the smaller average lot. Mr. Rosenblum stated that the Board should allow a structure proportional to the size of the property.

Mr. Rosenblum stated that Mr. Neiman could build a wall and attach the structure to the single family residence and a variance would not be needed. However, Mr. Rosenblum questioned whether the Board prefers this option.

Ms. Ulman noted that there are already four (4) structures on the site, above the two permitted by Village Code. Mr. Rosenblum stated that these structures were grandfathered in. Further, Mr. Rosenblum stated that this structure would replace that older one, which is being removed.

Dennis Dale asked what utilities are planned for this new structure. Mr. Rosenblum stated that there will be electricity, HVAC and the community well would supply water. There will be no plumbing.

In addition, Mr. Rosenblum reiterated that he disagrees with Ms. Ulman's interpretation of the Code and argued that the use is subordinate, though not the size. Ms. Ulman stated that the Board is sympathetic to the applicant's position. Ms. Ulman continued that the Board needed to decide if a building with five (5) uses (including a gym, art studio and wood shop) and is 3,200 square feet is subordinate and customarily incidental to a single family residence. Mr. Rosenblum repeated that in his view, the use of the structure is not relevant.

Mr. Martin Neiman, homeowner, was present and affirmed to tell the truth.

Mr. Neiman stated that he had observed other large structures on properties in the Village that are much taller than the structure he is proposing. In particular he noted a barn located in the Pomona Country Club. Mr. Neiman explained that the structure that he is proposing will be one large room to be used for activities that his wife does not allow in their home. Welding and maintenance of Mr. Neiman's son's motorcycle were provided as examples.

Doris Ulman suggested that if there is evidence of other structures in the Village that are similar in size and use, present that evidence to the Board for review. This evidence should include location and size of the example.

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

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

Chairman Schwab made a motion to adjourn this application to the March 15th meeting, seconded by Carole Anderson. Upon vote, this motion carried unanimously. (4-0)

**Item #6 –Public Hearing- Pinchas Kahana
15 Buena Vista Road**

Chairman Schwab read the public hearing notice into the record. Ryan Koyithara, architect for the applicant, was present and affirmed to tell the truth. Mr. Koyithara explained that this is a ranch style home and that during the planning process it was discovered that the foundation could not support a second story. Therefore, the decision was made to place an addition on the northeast side of the home. Mr. Koyithara stated that the current front yard is 12.7 feet and 10.7 feet is proposed and the current impervious surface ratio is .23 and .28 is proposed.

Doris Ulman asked what the building coverage was that was being requested. Mr. Koyithara confirmed that it was .21. Ms. Ulman inquired if it was possible to remove the shed. Mr. Koyithara indicated that the shed would be removed. It was noted that the impervious surface will be reduced by the size of the shed.

Chairman Schwab added that while out at the site visit, it was obvious that there was uniqueness and charm to the shed. In addition, Chairman Schwab noted that the shed may be of historical value and should perhaps be kept for these reasons.

Pinchas Kahana was present and affirmed to tell the truth. Mr. Kahana stated that there should be little effect on the neighborhood, as you are unable to see the addition from the street.

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

Chairman Schwab asked if anyone from the Board wished to be heard. Randi Marlin recommended that the applicant work with his neighbor.

Chairman Schwab made a motion to close the public hearing, seconded by Carole Anderson. Upon vote, this motion carried unanimously. (4-0)

Chairman Schwab made a motion to approve this application, leaving the shed on the property due to its historical value, subject to agency review letters. The Board also override paragraphs 1 and 2 of the February 9, 2023 Rockland County Department of Planning review letter. This motion was seconded by Dennis Dale. Upon vote, this motion carried unanimously. (4-0)

In the Matter of the Application of
Pinchas Kahana

Premises situated on the north side of Buena Vista
Road at the intersection with Cains Road, known as
15 Buena Vista Road, designated on the Tax Map as
Section 32.19 Block 1 Lot 26, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Pinchas Kahana 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 an addition to a single family residence having side yard setback of 10.7 feet instead of the minimum required of 25 feet, impervious surface ratio of .28 instead of the maximum permitted of .20, building coverage of .21 instead of the maximum permitted of .11 and expansion of the dimensional nonconformity, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on January 18, 2023, which hearing was continued on February 15, 2023, and

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

That the lot is nonconforming in that it is only 15,000 square feet as created by the Town of Ramapo in 1927 prior to the incorporation of the Village;

That the existing house, which was constructed at that time, has a side yard of 12.7 feet, impervious surface ratio of .23 and building coverage of .15;

That in order to keep as much land area as possible, the addition will be a second story instead of building outward;

That because the existing house could not support a second story, additional foundation and supports are needed which create the need for the side yard and impervious surface ratio variances;

That the 180 square foot shed that is on the front and side property lines is more than 100 years old and has neighborhood historic significance but can be removed to reduce the impervious surface ratio variance; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the beauty of the shed and the existing buildings, and

WHEREAS, no one appeared in opposition to the application,

NOW, THEREFORE, IT IS HEREBY DETERMINED that the proposed action s a Type II action and that no SEQRA determination is required, and be it further

RESOLVED, that the application submitted by Pinchas Kahana 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 second story addition to a single family residence having side yard of 10.7 feet instead of the minimum required of 25 feet, impervious surface ratio of .28 instead of the maximum permitted of .20, building coverage of .21 instead of the maximum permitted of .11 and expansion of dimensional non conformity is hereby approved, subject to the following:

1. Rockland County Planning Department GML Review Letter dated February 9, 2023 except that the Zoning Board of Appeals overrides Paragraphs 1 and 2 of such letter for the reasons that a) the addition proposed will enhance the aesthetics of the existing building; b) the variances are small in that the existing house is 12.7 feet from the side property line and has building coverage of .15, c) the existing shed is only 180 square feet and is 100 years old, is a beautiful building, enhances the community and has great historical value to the community;
2. Rockland County Sewer District No. 1 letter dated February 14, 2023;
3. New York State Department of Transportation letter dated January 18, 2023; and be it further

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

1. That the lot is in a unique neighborhood, the lot having been created almost 100 years ago and the house having historic significance that should be preserved;

2. That the applicant should be commended, not penalized, for building a second story on the existing house instead of building outward, which preserves as much land as possible on this small lot;
3. That the alternatives to the variances are to not increase the size and improve the structural integrity of the house, which are not feasible alternatives;
4. That the variances will not result in a detriment to the character of the community but by retaining the existing buildings, will enhance the aesthetics and quality of the neighborhood;
5. That the benefit to the applicant by granting the variances is substantial whereas no detriment to the neighborhood or to the community has been identified.

**Item #5 –Public Hearing- Nancy Rubin on behalf of Shimon Reider
14 Astor Place**

Chairman Schwab read the public hearing notice into the record. Chairman Schwab stated that there had been a walk thru on this site, where the builder was present and agreed that the width of the driveway was not necessary but thought it was more aesthetically pleasing. Chairman Schwab also stated that this variance is for a driveway width almost three times (3x's) what is permitted in the Village Code and that the applicant has not met the burden of proof necessary for granting the variances. No one representing the applicant was present at this meeting.

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

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

Randi Marlin made a motion to close the public hearing, seconded by Dennis Dale. Upon vote, this motion carried unanimously. (4-0)

Randi Marlin made a motion to deny this application, seconded by Dennis Dale. Upon vote, this motion carried unanimously. (4-0)

In the Matter of the Application of
Nancy Rubin on behalf of Shimon Rieder
Premises situated on the east side of Astor Place
Approximately 300 feet south of Woodcrest Road,
Known as 14 Astor Place, designated on the Tax Map
As Section 41.10 Block 1 Lot 39, in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Nancy Rubin on behalf of Shimon Rieder for variances from the provisions of Sections 230-17 Attachment I and 230-34D(4) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a circular driveway having a front yard

impervious surface ratio of .236 instead of the maximum permitted of .22 and a width of more than 12 feet, and

WHEREAS, after due notice, a public hearing was held by the Zoning Board of Appeals on January 18, 2023, which hearing was continued on February 15, 2023, and

WHEREAS, the applicant appeared by his contractor, who testified as follows:

That the pre-existing house has been demolished and a new residence is being constructed;

That the garage is being placed in front of the new residence and a circular driveway constructed;

That the proposed driveway is 13 feet wide in some places and the width increases to an area that is 31 feet wide;

That the applicant believes the driveway, as proposed, is aesthetically pleasing and will enhance the property; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the area of the proposed driveway, including the portion that is proposed to be 31 feet wide; 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 Nancy Rubin on behalf of Shimon Reider for variances from the provisions of Sections 230-17 Attachment I and 230-34D(4) of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a circular driveway having front yard impervious surface ratio of .236 instead of the maximum permitted of .22 and width of more than 12 feet is hereby denied, and be it further

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

1. That the width of the circular driveway exceeds the legal limit of 12 feet and, in some places, is as wide as 31 feet, nearly 3 times the legal limit;
2. That the variance is substantial, being almost three hundred percent of the requirement;
3. That there is a feasible alternative to granting the variance which is constructing a circular driveway that complies with the Village Code and applicant has given no reason for the large width other than he believes it will be aesthetically pleasing;

4. That the difficulty is self-created in that the applicant has provided no valid reason for the granting of the variance;
5. That the detriment to the neighborhood and to the community by granting a huge variance that is in the front yard and greatly exceeds the legal limit outweighs any potential benefit to the applicant.

Approval of Minutes- January 18, 2022

Carole Anderson made a motion to approve the January 18th minutes, seconded by Randi Marlin. Upon vote, this motion carried unanimously.

Randi Marlin made a motion to adjourn the meeting, seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Respectfully submitted,
Tara Roberts