

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

MEMBERS PRESENT:

Mordechai Schwab, Chairman
Dennis Dale
Carole Anderson
Randi Marlin, Ad Hoc
Stefanie Collantes-Bouvry, Ad Hoc

MEMBERS ABSENT:

Jonathan Gewirtz
Richard Weinberger

OTHERS PRESENT:

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

Chairman Schwab called the meeting to order at 7:40 p.m.

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

Chairman Schwab read the public hearing notice into the record. James Licata, the attorney for the applicant, was present. Chairman Schwab stated that several Board Members had made a site visit. Mr. Licata stated that the Applicant has reduced the proposed cabana from 1,522 sf to 649 sf. Mr. Licata also provided the Board a revised highlighted plan with the following changes: paver area marked in green will not be constructed and yellow marked area will be constructed with pervious pavers. The applicant will have their engineer prepare a revised plan.

The following letters were read into the read:

Rockland County Sewer District #1 memo dated 3/15/2023.
Rockland County Health Department memo dated 3/13/2023.
Town of Ramapo Highway memo dated 2/24/2023.
Rockland County Department of Planning GML dated 3/13/2023.

Mr. Licata stated that the Applicant agrees to all the conditions in the review memos except they are requesting that the Board consider overriding comment #1 and comment #2 on the County Planning Department GML dated 3/13/2023 as those comments do not apply.

Doris Ulman stated that there will also be a condition of approval that the mikva will be used for the family and not for the public or for profit.

Mr. Licata provided the following letters of support:

10 Butler Court	5 Cutler Court
9 Cutler Court	8 Cutler Court
11 Cutler Court	4 Cutler Court

12 Cutler Court

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

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

Carole Anderson questioned how is the Village going to enforce the mikva usage?

Mr. Licata answered that the Building Department will address any complaints and further the neighbors who all signed the letters of support will notice right away.

Denise Dale made a motion to approve the application with the conditions noted in the below resolution, seconded by Stefanie Collantes-Bouvry:

**In the Matter of the Application of
Avraham Ulano
Premises situated on the south side of Cutler
Court at Route 202, known as 7 Cutler Court,
designated on the Tax Map as Section 40.16
Block 1 lot 1, in an R-50 Zoning District**

WHEREAS, an application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Avraham Ulano for variances from the provisions of Sections 230-17 Attachment I, 230-14 O(a) and 230-14 (5) of the Code of the Village of Wesley Hills. to permit the construction, maintenance and use of an in-ground swimming pool and cabana, the swimming pool having front yard of 44.9 feet instead of the minimum required 50 feet, building coverage of .107 instead of the maximum permitted of .10, side yard of 11.8 feet instead of the minimum required of 75 feet, impervious surface ratio of .292 instead of the maximum permitted of .20 and to permit an accessory building that is 1,522 square feet instead of the maximum permitted of 900 square feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on September 21, 2022, which hearing was continued on October 19, 2022, November 16, 2022, December 21, 2022, January 18, 2023, February 15, 2023, and March 15, 2023, and

WHEREAS. applicant appeared in person and by his attorney, who testified as follows:

That the cabana will contain dressing rooms, a bathroom, a mechanical room and a mikvah;

That the pool is existing and the side yard of 11.8 feet is the only feasible location for the cabana;

That the mikvah within the cabana will be used by the applicant and his social guests only and will not be a community or public mikvah; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the area where the cabana will be situated, and

WHEREAS, members of the Zoning Board of Appeals asked the applicant to reduce the size of the cabana and the size and number of variances requested; and

WHEREAS, the applicant directed his architect to reduce the size of the cabana and a revised plan was submitted to the Zoning Board of Appeals on January 18, 2023, showing a proposed cabana having 649 square feet instead of the previous 1,522 square feet, removing a portion of the patio and installing some pervious pavers; and

WHEREAS, the revised application eliminates the need for a front yard variance for the cabana, eliminates the request for the building coverage variance and the variance for the size of the cabana and substantially reduces the impervious surface ratio variance, and

WHEREAS, several neighbors submitted letters 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 is hereby amended to request the following variances instead of those originally requested: to permit the swimming pool having front yard of 44.9 feet instead of the minimum required of 50 feet, the cabana having side yard of 11.8 feet instead of the minimum required of 30 feet, total yard side of 67.4 feet instead of the minimum required of 75 feet and impervious surface ratio of .23 instead of the maximum permitted of .20, and be it further

RESOLVED, that the amended application submitted by Avraham Ulano for variances from the provisions of Sections 230-17 Attachment 1 and 230-14 O (a) of the Code of the Village of Wesley Hills is hereby approved, subject to the following conditions:

1. That the mikvah will be used by the applicant, members of his family and guests only and will not be a public or commercial mikvah;
2. Rockland County Department of Planning GML review letter dated March 13, 2023, except for paragraphs 1 and 2 of such letter that the Zoning Board of Appeals hereby overrides for the following reasons:

Paragraphs 1 and 2 of the GML review letter are completely incorrect as applied to this application. The Courts have long held that statutes must be given reasonable interpretations and that it is not possible for a statute to foresee every conceivable situation to which it will apply. The list of types of accessory buildings cited in the Village Code, therefore, is not exhaustive;

cabanas do not require use variances because they fall within the definition of “BUILDING, ACCESSORY”- they are subordinate to the main building on the lot and are customarily incidental to the main building. Cabanas are not separate uses; they cannot stand alone on a lot but must be subordinate to a primary use. The reason the Village is considering adoption of the proposed local law is not to permit their use but to restrict their size and use.

3. Rockland County Sewer District No. 1 letter dated March 15, 2023;
4. Rockland County Center for Environmental Health letter dated March 13, 2023;
5. Town of Ramapo Department of Public Works letter dated February 24, 2023; and be it further

RESOLVED. that the Zoning Board of Appeals hereby makes the following **FINDINGS OF FACT:**

1. The applicant is to be commended for substantially reducing the size of the cabana and for eliminating a substantial portion of the impervious surface on the lot;
2. The requested variances are not substantial except for the side yard variance and there is no feasible location for the cabana except as requested by the applicant;
3. The variances will not create an undesirable change in the character of the neighborhood nor a detriment to adjacent properties;
4. The benefit to the applicant by granting the variances is substantial whereas no detriment to nearby properties or to the neighborhood has been identified.

Upon vote, this motion was carried unanimously.

**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. Chairman Schwab made a motion to adjourn this application to the April 19, 2023, meeting at 7:30 P.M., seconded by Stefanie Collantes-Bouvry. Upon vote, this motion was carried unanimously.

**Item #6 –Continued Public Hearing- Asher and Aliza Goldbrenner
19 Astor Place**

Chairman Schwab read the public hearing notice into the record. Chairman Schwab stated that a site visit occurred on March 12, 2023.

Asher Goldbrenner, applicant, was present and affirmed to tell the truth. Mr. Goldbrenner stated that as part of the site visit it was questioned why the addition cannot be moved to the other side of the home to eliminate the need for variance. Mr. Goldbrenner answered that if the addition was moved to the opposite side of the home the whole interior layout of the home would have to be renovated to have a consistent flow and further, we are planning on remaining in the house while the extension is being constructed and the bedrooms are on the opposite side of the house. The applicant stated that they sent out letters of support to the neighbors, but unfortunately have not received any letters back.

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

Chairman Schwab made a motion to close the public hearing, seconded by Randi Marlin. Upon vote, this motion was carried unanimously.

Carole Anderson made a motion to approve the application, seconded by Dennis Dale:

**In the Matter of the Application of
Asher and Aliza Goldbrenner
Premises situated on the west side of Astor Place
Approximately 300 feet south of Ardley Place, known
As 19 Astor Place, designated on the Tax Map as
Section 41.10 Block 1 Lot 52, in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hill by Asher and Aliza Goldbrenner for variances from the provisions of Section 230-17 Attachment I and 230-34 B(1) to permit the construction, maintenance and use of an addition to a single family residence having a side yard of 21.3 feet instead of the minimum required of 25 feet and a driveway gradient of 17% for a 5 foot long segment instead of the maximum permitted of 12%, and

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

That the existing house was constructed many years ago before the limitation on driveway gradients and the existing gradient exceeds 12%;

That the addition will be on the north side of the house which will increase the existing gradient of the driveway slightly to the requested 17%;

That the addition cannot be placed on the south side of the house because of the interior layout and the fact that applicants intend to continue to reside in the house during construction; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the existing slope of the driveway and the placement of the addition to the residence, 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 Asher and Aliza Goldbrenner for variances from the provisions of Sections 230-17 Attachment I and 230-34 B (1) to permit the construction, maintenance and use of an addition to a single family residence having side yard of 21.6 feet instead of the minimum required of 25 feet and a driveway gradient of 17% for a 5 foot long segment instead of the maximum permitted of 12% is hereby granted, 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, the side yard being less than 20% and the driveway gradient approximately 10% over the existing gradient;
2. That there is no feasible alternative to granting the variances inasmuch as the applicants intend to reside in the house during construction and because of the interior layout of the existing house this would not be possible if the addition were on the south side of the house;
3. That no detriment to adjoining properties or to the neighborhood results from granting the variances;
4. That the benefit to the applicant by granting the variances is substantial whereas no detriment to nearby properties or to the neighborhood has been identified.

Upon vote, this motion was carried unanimously.

**Item #7 – Public Hearing – Nachum Lebovics and Ann Braunstein
16 Hastings Road**

Chairman Schwab read the public hearing notice into the record. Kalman Herskovits, Construction Expediting was present and affirmed to tell the truth. Mr. Herskovits stated that what is triggering the request for the building coverage variance is the construction of the rear deck which is higher than 3 feet and counts as building coverage.

Dennis Dale questioned what is the square footage of the proposed home?

Kalman Herskovits answered 6,537 sf.

No one from the public wished to speak.

Chairman Schwab made a motion to adjourn the meeting to April 19, 2023, and schedule a site visit on April 16, 2023, seconded by Carole Anderson. Upon vote, this motion was carried unanimously.

Item #5 –Continued Public Hearing- Martin Neiman

24 Pomona Lane

Chairman Schwab read the public hearing notice into the record. Neither the Applicant nor their representatives were present. Randi Marlin made a motion to continue the public hearing to April 19, 2023, and to notify the applicant that this is the last adjournment, seconded by Dennis Dale. Upon vote, this motion was carried unanimously.

Item #9

Discussion-Cabana Law

Chairman Schwab stated that he was in attendance with the PB Chair, PB Attorney and the Mayor to discuss the cabana law and the ZBA's thought process in proposing the draft law. Frank Brown has provided the Board with a memo requesting that the ZBA consider amending the proposed law to include a landscaping screening requirement for cabanas. Board Members reviewed the proposed letter and agreed that they will not be proposing landscape screening for cabanas.

Item #8

Approval of Minutes- February 15, 2023

Randi Marlin made a motion to approve the February 15, 2023, minutes, seconded by Dennis Dale. Upon vote, this motion was carried unanimously.

Chairman Schwab made a motion to adjourn the meeting, seconded by Randi Marlin. Upon vote, this motion was carried unanimously.

Respectfully submitted,
Camille Guido-Downey