

**Village of Wesley Hills
Zoning Board of Appeals
Wednesday, April 19, 2023
7:30 P.M.**

MEMBERS PRESENT:

Jonathan Gewirtz, Chairman
Dennis Dale
Stefanie Collantes-Bouvry, Ad Hoc

MEMBERS ABSENT:

Mordechai Schwab
Richard Weinberger
Carole Anderson
Randi Marlin, Ad Hoc

OTHERS PRESENT:

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

Chairman Gewirtz called the meeting to order at 7:45 p.m.

**Item #4 – Continued Public Hearing – Nachum Lebovics and Ann Braunstein
16 Hastings Road**

Chairman Gewirtz read the public hearing notice into the record. Kalman Herskovits, Construction Expediting was present and affirmed to tell the truth. Mr. Herskovits stated that there was a site visit on Sunday, April 17, 2023. Mr. Herskovits explained that the new home is fully constructed and what is triggering the variance request for building coverage is the construction of the rear deck which is higher than 3 feet and counts towards building coverage. Mr. Herskovits added that no GML is required for this application. He stated that the grade of the property caused the deck to be higher than originally anticipated.

Chairman Gewirtz stated that the applicant is requiring a 12% variance.

Dennis Dale questioned how big is the deck?

Mr. Herskovits answered 12 x 27, 324 sf.

Dennis Dale stated that he attended the site visit, and the Applicant has done a lot of work to conform to the Village's code.

Chairman Gewirtz stated that when he visited the property, he noticed that there was not a lot of screening.

Kalman Herskovits answered that there is plenty of screening. Mr. Herskovits stated that letters of support were sent out to the neighbors, but no one has signed and returned them. Mr. Herskovits stated that no one attended the last meeting or this one.

No one from the public wished to speak.

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

Dennis Dale made a motion to approve the application as the Applicant did the best they could to conform to the Village's code, the request is a small variance that is being requested and the deck is not living space, seconded by Stefanie Collantes-Bouvry.

**In the Matter of the Application of
Nachum Lebovics and Ann Braunstein
Premises situated on the north side of Hastings
Road, approximately 50 feet north of Bedford Road,
Known as 16 Hastings Road, designated on the Tax
Map as Section 41.15, Block 1, Lot 4, in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Nachum Lebovics and Ann Braunstein 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 building coverage of .124 instead of the maximum permitted of .11 and,

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on March 15, 2023, which hearing was continued on April 19, 2023, and

WHEREAS, the applicants appeared by the contractor, who testified as follows:

That during construction it became apparent that the deck at the rear of the house would be more than three feet in height;

That the reason for the height was the grade of the property at the rear of the house;

That applicants tried to accommodate the grade by bringing in truckloads of fill but it was not sufficient to reduce the height of the deck;

That even though the deck is not enclosed, the Village Code requires a deck that is higher than three feet off the ground to be counted as building coverage;

That without the deck a variance would not be necessary; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the deck; 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 Nachum Lebovics and Ann Braunstein 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 building coverage of .124 instead of the maximum permitted of .11 is hereby approved, 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 12% of the requirement;
2. That there is no feasible alternative to granting the variances, the only alternative being to remove the deck from the house, which would be aesthetically unpleasing and deprive the applicants of the use of an outdoor facility;
3. That the granting of the variance does not create a detriment to the environment or the ecology;
4. That the benefit to the applicant by the granting the variance is substantial whereas no detriment to neighboring properties or to the community has been identified.

Upon vote, this motion was carried unanimously.

**Item #5-Public Hearing-Lampert
21 Dike Drive**

Chairman Gewirtz read the public hearing notice into the record. Doris Ulman stated that the Applicant's Architect, Stanley Mayerfeld, is out of the country and the Applicant can reach out to him if the Board wishes. Dr. Lampert was present and affirmed to tell the truth. Dr. Lampert presented to the Board the following information:

- Seeking one variance for building coverage from .10 to .15 for the construction of a new home and deck. Dr. Lampert stated that he is also building a bedroom and sitting room for his ageing mother-in-law.
- The property is in the R-35 zone and all the neighboring homes are large and in an R-50 zone. Dr. Lampert stated that he has the smallest lot in the area.
- There is a steep slope in the rear of his home.
- A site visit was conducted in March.

Dr. Lampert provided the Board with an interior layout of the home.

Chairman Gewirtz stated that the variance being requested is a 50% variance and the ZBA must consider the impact on the neighborhood. Board Members discussed the design of the home, reduction/elimination of the deck, and reduction/elimination of the in-law-suite.

The following letters were read into the record:

1. Rockland County Department of Highway letter dated March 8, 2023
2. Letters of supports from the following locations:
22 Dike Drive, 23 Dike Drive, 54 Lime Kiln Road, 16 Dike Drive, 9 Dike Drive, 17 Dike Drive, 12 Dike Drive.
3. Rockland County Health Department letter dated April 17, 2023
4. Rockland County GML dated April 17, 2023
5. Rockland County Sewer District #1 dated April 17, 2023

Stanley Mayer, Applicant's Architect joined the meeting via phone and explained the need for the in-law suite, the steep slope in the rear of the property, and the covered porch that is triggering the variances. Mr. Mayerfeld stated that the home will not appear to be big compared to the homes on the street. he stated that the applicant worked hard to make sure that all setbacks were complied with as with the prior property the rear of the property drops off which is why the deck is more than 3 feet high.

Doris Ulman questioned the SF of the home?

Stanley Mayerfeld answered 4,600 sf.

Dennis Dale questioned what is the sf of the in-law-suite?

Stanley Mayerfeld answered 800 sf.

Board Members recommended to Dr. Lampert and Stanley Mayerfeld that the Applicant revisit their plan and work to reduce the variance being requested.

Dennis Dale made a motion to adjourn the application to the May 17, 2023 meeting to allow time for the Applicant to reconsider their request, and another site visit will be held on May 7, 2023, seconded by Stefanie Collantes-Bouvry. Upon vote, this motion was carried unanimously.

Item #3 –Continued Public Hearing- Martin Neiman 24 Pomona Lane

Chairman Gewirtz read the public hearing notice into the record. Todd Rosenblum, Applicant's Architect was present and affirmed to tell the truth. Mr. Rosenblum presented to the Board the following updates:

- Mr. Rosenblum attended two Board of Trustees meetings and the Village Board has stated that they view this application as a perfect example of an application that the Zoning Board should consider as having unique circumstances as that is the purpose of the ZBA. This is a unique situation.
- This application is not precedent setting as there are approximately 10 other properties in the Village that have 3.7 times the allowable lot size. The applicant has a 132,000-sf lot

size in a 35,000-sf zone. By approving this application there will not be a tidal wave of applicants requesting the same approval as there are not many lots that are able to do so.

- The applicant is seeking to construct a 3,000-sf accessory structure to house his many hobbies. Mr. Rosenblum stated that the Applicant can construct three separate 900 sf buildings, however he is looking to construct one metal, one story building with one bathroom. Applicants will be removing one falling down structure and cleaning the property up by constructing this building. The metal building will be 15 feet high and will have a gravel driveway.
- The applicant has the support of all the surrounding neighbors.
- The lot is located in a private community that receives very little services from the Village. There are gravel roadways. The Association has one large barn that is approximately 3,000 sf that is used for parties. The Pomona Country Club is rural and not similar to the rest of the Village.
- The proposed structure will be located 130 feet from the back property line and the property is heavily wooded.
- Mr. Rosenblum stated that he further spoke to the Village Board about amending the code for accessory buildings to be based on lot size for this exact reason.
- Applicant would agree to the following conditions of approval, earth tone for the color of the metal building, no subdivision, no further variances, no synagogue, no public profit use, no business, and no non-for-profit use. Applicants will also ensure that it is kept in good repair.

Doris Ulman stated that she is concerned with the amount of uses under one building.

Todd Rosenblum stated that the Applicant will have 5 (dance, painting, wood working, old car maintenance, metal, etc.) uses which are all hobbies.

Chairman Gewirtz stated that he is fine with all the proposed uses under one roof, as they are recreational and noted for the record that the Pomona Country Club operates under a different vibe.

Stefanie Collantes-Bouvry stated that Mr. Rosenblum has swayed her thought process of the application from last month to this month based on his arguments.

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

Jonathan Gewirtz made a motion to approve the application, seconded by Dennis Dale, subject to the following conditions and findings of facts:

1. This will be a one in a million situation in the Village.
2. Large property
3. PCC homeowner association is rural and does not conform to the village standards as there is no plowing, no water, no sewer etc., all wooded area, rural and this structure is in conformity to that area and with the neighbors. Outhouses in this area are normal.
4. All the proposed uses are recreation uses.

5. While the building is larger than the existing home, the home will remain the primary use of the property. There are other ways that this structure could be built such as being attached to the home, but that would create a hardship for the owner by the increase of taxes.
6. Neighbors are supportive of the application.
7. The metal building is required to be constructed in earth tones colors.
8. There shall be no commercial or public use of the building.

In the Matter of the Application of

Martin Neiman

Premises situated on the south side of Pomona Lane

At the intersection with West Lane, known as 24 Pomona

Lane, designated on the Tax Map as Section 41.08, Block 2

Lot 29, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals by Martin Neiman for variances from the provision of Sections 230-14 O(5) and 230-14 O(6) to permit the construction, maintenance, and use of an accessory building that is 3,200 square feet instead of the maximum of 900 square feet and is the fourth accessory building on the lot whereas a maximum of two are permitted, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on the 18th day of January 2023, which hearing was continued on the 15th day of February 2023, the 15th day of March 2023, and the 19th day of April 2023, and

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

That the property is almost three acres and is part of the Pomona Country Club community;

That the Pomona Country Club community is very rural, has no paved roads, no sewers, has its own well to supply water for its properties, handles its own garbage collection and snow removal, has its own homeowner's association, etc.

That applicant wants to construct a 3,200 square foot one story metal building for his hobbies which are woodworking, painting cars, recreational area and gym;

That the building will have a bathroom but no kitchen;

That his property is unique in the Village, there being only about 10 large properties of this nature in the Village; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the area where the building is proposed to be located; and

WHEREAS, one person appeared and spoke in opposition, but the Board received many letters of support of 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 Martin Neiman for variances from the provisions of Sections 230-14O(5) and 230-14O(6) to permit the construction, maintenance and use of a 3,200 square foot accessory building and to permit four accessory buildings on the lot is hereby granted, subject to the following conditions:

1. That the color of the building shall be earth tones to blend in to the surrounding area;
2. That the building shall not be used for commercial purposes and shall be for the use of the applicant, his family and guests only and not open to the public, and be it further

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

1. That the property is unique in that it is almost 3 acres in size and is part of the Pomona Country Club;
2. That unlike most other properties in the Village, properties within the Pomona Country Club are rural, have no paved roads, no sewers, use their own well water and have a homeowners' association that establishes rules for the use of properties within their community;
3. That although the accessory building is large, it is not large in relation to the size of the applicant's property.
4. That by imposing the conditions that the building shall not be used for commercial or public use any potential traffic or noise impacts will be mitigated;
5. That the benefit to the applicant by granting the variances is substantial whereas no detriment to adjoining properties or top the neighborhoods has been identified.

Upon vote, this motion was carried unanimously.

Item #8-New Business

Chairman Gewirtz stated that the Village received a letter dated April 4, 2023, from Todd Rosenblum in reference to an extension of time for the property owned by Mr. Kramer located at 23 Dike Drive. Todd Rosenblum was present and affirmed to tell the truth. Mr. Rosenblum stated that the Applicant has had some health issues and did not move forward with the project and would like to do so now. The ZBA approval was granted on March 15, 2022.

Doris Ulman stated that the variances expire September 15, 2023, as variances expire after 18 months. She asked if there had been any changes to the property since the variances were granted.

Todd Rosenblum stated that there were no changes, and everything remains the same.

Stefanie Collantes-Bouvry made a motion to approve the one-year extension to September 15, 2024, seconded by Dennis Dale. Upon vote, this motion was carried unanimously.

Item #6 – Public Hearing – 22 Dike Drive LLC

22 Dike Drive

Chairman Gewirtz read the public hearing notice into the record. Ms. Ulman stated that the applicant had not submitted envelopes for the public hearing notices so the application cannot move forward. Neither the Applicant nor their representatives were present. Chairman Gewirtz made a motion to continue the public hearing to May 17, 2023, and a site visit on May 7, 2023, seconded by Dennis Dale. Upon vote, this motion was carried unanimously.

Item #7

Approval of Minutes- March 15, 2023

Doris Ulman stated that there are not enough members present to approve the March 15, 2023, minutes and they should be presented again next month.

Chairman Gewirtz made a motion to adjourn the meeting, seconded by Stefanie Collantes-Bouvry. Upon vote, this motion was carried unanimously.

Respectfully submitted,
Camille Guido-Downey