

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, February 27, 2019**

MEMBERS PRESENT:

Jonathan Gewirtz
Carole Anderson
Dennis Dale
Randi Marlin, Ad Hoc
Mordechai Schwab, Ad Hoc

MEMBERS ABSENT:

Richard Weinberger, Chairman
Jan Hilgeman

OTHERS PRESENT:

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

Acting Chairman Jonathan Gewirtz called the meeting to order at 8 p.m.

Item #3

**Emily Burnbaum
18 East Lane**

Aaron Cohen was present and affirmed to tell the truth and stated that he has submitted a letter dated February 19, 2019 with 32 neighbors who have reached a compromise. Neighbors have agreed that all the sport court lights will be reduced to 15'. Mr. Cohen stated that further he could have asked the Planning Board for more than 4 lights but he felt that at that time 4 lights were sufficient.

Jonathan Gewirtz stated that 4 poles were approved by the Planning Board and if the Applicant wishes to add he will need to seek that approval of the Planning Board.

Doris Ulman stated that the compromise is good.

Dennis Dale stated that he is upset that the Applicant decided to ignore the approval from the Planning Board and construct whatever he wanted and ask for permission after the fact. The site plan was dated back to 2017.

Mr. Cohen stated that he disagrees with Mr. Dale and stated that the law is unclear on the topic.

Doris Ulman stated that Mr. Dale is correct and the Planning Board only approved 12' high poles. Mr. Dale's comments are well taken and the compromise with the neighbors should be considered by the Board with a condition that all the lights are shielded.

Jonathan Gewirtz stated that all the lights on the home are out of conformity to the neighborhood and Mr. Cohen should consider shielding all the home lights. Mr. Gewirtz stated that the home lights are not under the jurisdiction of the Zoning Board however the Applicant should consider.

Mordechai Schwab made a motion to approve the following resolution, seconded by Dennis Dale:

**In the Matter of the Application of
Emily Burnbaum
Premises situated on the west side of
East Lane at the intersection with Pomona
Lane, known as 18 East Lane, designated
On the Tax map as Section 32.20 Block 1
Lot 37, in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning board of Appeals of the Village of Wesley Hills by Emily Burnbaum for variances from the provisions of Section 230-14Z of the Code of the Village of Wesley Hills to permit the maintenance and use of light poles for a sports court, two of which are 15 feet in height instead of the maximum permitted of 12 feet and two of which are 20 feet in height instead of the maximum permitted of 12 feet and from the provisions of Section 230-14L of said Code to permit the maintenance and use of a fence having a height of 10 feet instead of the maximum height permitted of 8 feet, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on December 19, 2018 which hearing was continued on January 16, 2019, and

WHEREAS, the applicant appeared by her attorney who testified as follows:

That although the Planning Board Special Permit only approved lights of 12 feet in height, the applicant's consultant recommended the 15 and 20 feet heights in order to properly light the basketball/tennis court for use during late afternoons and nighttime hours;

That the taller lights spread the lights over a larger area so that fewer lights are needed; with 12 foot high lights we would probably need an additional two or three lights;

That the lights are only used when the family is using the sports court so that the lights are off most of the time;

That applicant disagrees with the Village's interpretation and believes that since the size of the sports center requires a Special Permit, the provisions of Section 230-54B)(2) apply so that the permitted height for lights is 18 feet; and

That because of the grade of the property, the 10 foot high fence is necessary in order to prevent the balls from leaving the property; and

WHEREAS, several neighbors appeared in opposition to the application, stating that the lights shine beyond the boundaries of the applicant's property; and

WHEREAS, members of the Zoning Board of Appeals visited the site during the evening hours to view the impact of the lights; and

WHEREAS, the Zoning Board of Appeals noted that this application is subject to coordinated review pursuant to SEQRA and the Wesley Hills Planning Board has made a negative declaration,

NOW, THEREFORE, BE IT RESOLVED, that the application submitted by Emily Burnbaum for a variance from the provisions of Section 230-14L of the Code of the Village of Wesley Hills to permit the maintenance and use of an existing 10 foot high fence is hereby granted and the variance from the provisions of Section 230-14Z of the Code is hereby partially granted to the extent that all four light poles shall not exceed 15 feet in height each, subject to the conditions: 1) that all lights shall be angled downward to cut the glare and to prevent the lights from crossing the property lines of applicant's property, 2) compliance with Special permit approval of the Wesley Hills Planning Board, 3) the Village Engineering Consultant shall inspect the property for compliance with this resolution, and it is further

RESOLVED, that the Zoning Board of Appeals recommends that all lights mounted on the residence be angled downward so that they do not cross the property lines of applicant's property, and be it further

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

1. That the provisions of Section 230-14Z, not 230-54B, of the Village Code apply to applicant's property because the use of the sports center is an accessory use to a single family use so that the provisions relating to residential uses apply, Section 230-54B applies to uses other than single family uses;
2. That a three foot variances (from 12 feet to 15 feet) is not substantial particularly when considering the condition imposed on the variance;
3. That by angling the lights downward the lights will not be detrimental to adjoining property owners or to the neighborhood;
4. That the benefit to the applicant by granting the variances is substantial whereas any detriment to neighboring properties it to the neighborhood will be minimized.

Upon vote, this motion carried unanimously.

Item #4
Congregation Anshei Chesed-Public Hearing
62 Lime Kiln Road

Stanley Mayerfeld, Architect for the Applicant was present and affirmed to tell the truth stated that the existing building onsite will be used for services while the larger building will be

constructed. Once the new building is complete, the old building will become with renovations, the Rabbi's residence. There is parking located onsite, off site and on the side street. Neighbors have agreed to allow usage of their driveways and further a tentative agreement has been reached with the congregation across the street for parking. Mr. Mayerfeld stated that congregants that use the off street and side street parking will have pedestrian access through a walking path.

Jonathan Gewirtz stated that he is concerned with the 29 parking spaces being allocated from the congregation across the street as services are usually at the same time.

Stanley Mayerfeld stated that the Planning Board will determine the number of parking spaces.

Jay Pepper, 12 Roble Road was present and affirmed to tell the truth and stated that the number of parking spots may be reduced.

Stanley Mayerfeld stated that the Applicant has worked really hard to squeeze as much parking on site as possible.

The following letters were received:

Rockland County Health Department review memo dated 2/14/19.

Rockland County Highway Department review memo dated 1/24/19.

County of Rockland Department of Planning GML dated 2/21/19.

Rockland County Sewer District #1 review memo dated 2/8/19.

Stanley Mayerfeld stated that he has received copies of all the memos and will review.

Mr. Netz, 8 Roble Road was present and affirmed to tell the truth and stated that he is a Trustee of the Congregation and he fully supports the project along with over 25 people who are here tonight. The congregants that came out tonight took time away from their families to be here and support this application.

The following letters of support were received:

60 Lime Kiln Road
21 Dike Drive
1 Roble Road
61 Lime Kiln Road
51 Wilder Road
22 Dike Drive
23 Dike Drive
54 Lime Kiln Road
64 Lime Kiln Road

Doris Ulman requested that the Applicant review all the agency memos and respond. Applicant needs to review the impervious surface request and see if an alternate material can be used to reduce the variance as mentioned in one of the agency memos.

Stanley Mayerfeld stated that he will review and consider.

Doris Ulman stated that the Board will need a definite commitment from the neighboring congregation and from other properties for the parking.

Board Members and Stanley Mayerfeld reviewed other agency comments and the Board looks forward to the applicant's responses.

Rabbi Twerski, 48 Wilder Road was present and affirmed to tell the truth and stated that his congregants and he look forward to having this project start and noted that the parking requirement being imposed is excessive and not needed.

Peter Venezia, 5 Carefree was present and affirmed to tell the truth and stated that he is concerned with how unsafe Lime Kiln Road is and the need for sidewalks. Mr. Venezia stated that the neighborhood is becoming over developed and needs to be controlled. With every congregation built another home comes off the tax roll and others are picking up the cost.

Jonathan Gewirtz stated that Lime Kiln Road is a County Road and Mr. Venezia can contact the County to request sidewalks. The Village supports places of worship and they are allowed as of right.

Stanley Ball, 23 Timber Trail stated that he is also concerned about sidewalks and stated that the road needs to be wider.

Doris Ulman offered the following suggestions:

- Remove all unnecessary concrete patios listed on the plan
- Consider pavers for the ramps
- Any patios that are to remain consider pavers
- Submit a landscaping plan and ensure that it addresses the County GML concerns
- Submit a response to each agency's comments
- Review and provide the calculations for the impervious surface

Randi Marlin made a motion to continue the public hearing to April 3, 2019 and schedule a site visit for March 31, 2019, seconded by Mordechai Schwab. Upon vote, this motion carried unanimously.

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

Respectfully Submitted,

Camille Guido-Downey