

**Village of Wesley Hills
Zoning Board of Appeals
Village Hall
Wednesday, January 16, 2019**

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Richard Weinberger, Chairman
Jonathan Gewirtz
Jan Hilgeman

OTHERS PRESENT:

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

Acting Chairman Dennis Dale called the meeting to order at 8:05 p.m.

Item #3

**Kenneth & Tamar Schaum-Continued Public Hearing
9 Marcus Drive**

Robert Ball, Westrock Pools was present on behalf of the applicant and affirmed to tell the truth. Mr. Ball stated that the applicant is seeking to construct an in ground pool requiring a front yard variance and impervious surface ratio variance. Mr. Ball stated that the driveway at the home is more than 3,500 sf at N Sherri Lane and there is no impact to the neighbors as the home is set high. Mr. Ball stated that the Applicant has agreed to install pervious pavers and has reduced the impervious surface variance from .365 to .338 revised plan was submitted dated 11/29/18.

Doris Ulman stated that that the Applicant has amended their plan at the request of the ZBA and even though the variance is large, it is still within precedential limits. Ms. Ulman has no objection to the variances being granted.

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

Mordechai Schwab made a motion to approve the following application, seconded by Randi Marlin:

**In the Matter of the Application of
Kenneth and Tamar Schaum
Premises situation on the east side of Marcus
Drive approximately 338 feet from Village
Green, known as 9 Marcus Drive, designated
On the Tax Map as Section 41.12 Block 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 Kenneth and Tamar Schaum for variance from the provisions of Section 230-17 Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an in-ground swimming pool having a front yard of 36 feet instead of the minimum required of 50 feet and impervious surface ratio of .365 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 November 28, 2018, which hearing was continued on December 19, 2018 and January 16, 2019, and

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

That this is an average density lot that contains only 30,000 square feet;

That the house is set far back from Marcus Drive so that the only feasible place for the pool is behind the house, which causes it to be in the front yard at North Sherri Lane;

That the setback of the house also creates the necessity for a long driveway, so that the driveway is 3852 square feet;

Both the driveway and the placement of the house are existing conditions;

That at the request of the Zoning Board, the applicant is proposing to use pervious pavers as the decking for the swimming pool so that the impervious surface is reduced by about 10%; and

WHEREAS, several neighbors submitted letters in support of the application and no one appeared in opposition; and

WHEREAS, members of the Zoning Board of Appeals visited the site to view the existing site conditions,

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

RESOLVED, that the application submitted by Kenneth and Tamar Schaum for variances from the provisions of Section 230-17 Table of Dimensional Requirements of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of an in-ground swimming pool having a front yard of 36 feet instead of the minimum required of 50 feet and impervious surface ratio of .338 instead of the maximum permitted of .25 are hereby approved, 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 that the front yard variance is less than 30% and the impervious surface variance of 33%.
2. That there is no feasible alternative because of the location of the existing house and driveway;
3. That applicant has reduced the requested variances by changing the entire decking around the pool to pervious pavers instead of the previously proposed impervious surface;
4. That the benefit to the applicants by granting the variance is great whereas no detriment to adjoining properties or to the neighborhood has been identified.

Upon vote, this motion carried unanimously.

Item #4

**Emily Burnbaum- Continued Public Hearing
18 East Lane**

Aaron Cohen, Esq. was present on behalf of the Applicant and stated that he is also an occupant of the home. Mr. Cohen stated that he is seeking variances from the height of the lights for the sports court and the fence. There are 4 light poles installed and two are 20 feet in height and two are 15 feet in height instead of the maximum height of 12 feet. The fence surrounding the basketball court is 10 feet in height instead of the maximum permitted of 8 feet. Mr. Cohen stated that the sports court is a sunken court and was not constructed at grade. Mr. Cohen stated that the green giant trees will grow to 20'. Mr. Cohen stated that the light itself can be adjusted and pointed down.

Mike Geisler, 18 Pomona Lane was present and affirmed to tell the truth and stated that the Board was present at the site visit and they can see the light pollution. Mr. Geisler submitted a letter to the Board along with his supporting documents. Mr. Geisler stated that he is concerned that the ZBA maybe setting a precedence if the application is approved. A letter dated 1/10/19 was submitted in opposition to the Application from the following addresses:

23 East Lane
15 East Lane
33 East Lane
23 Pomona Lane
18 Pomona Lane

Mr. Cohen stated that Mr. Geisler's house is over 700 feet away (2 ½ football courts away) from the center of the sports court and provided to the Board an aerial photo of the area and indicated the distances to all the residents in the letter. Mr. Cohen added that no resident that submitted the letter dated 1/10/19 is close to his house. Mr. Cohen stated that he is willing to turn off any light if requested and to date no one has requested that his house lights be turned off.

Mike Geisler stated that the night of the site visit his lights were on till 2am.

Dennis Dale stated that he would like to close the public hearing and reserve their right to make a decision to the February meeting so that the Applicant has the full Board in attendance.

Mordechai Schwab stated that also the one month will allow the Applicant and his neighbors to come to a compromise.

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

Motion to reserve decision made by Mordechai Schwab, seconded by Randi marlin and carried unanimously.

Item #5

Approval of Minutes – December 19, 2018

Mordechai Schwab made a motion to approve the Zoning Board of Appeals Minutes of December 19, 2018 seconded by Carole Anderson. Upon vote, this motion carried unanimously.

Item #6

New Business

Doris Ulman stated that the Village has received a complaint in reference to the Braunstein variance that was issued at 5 Rochelle Lane.

Neighbors were present and stated the following concerns:

1. Landscaping that was a condition of approval was not installed at the required height.
2. No landscaping was installed around the generator.
3. Drainage pipe that was installed in the rock wall is uncapped and water is entering back neighbors yard and back neighbor is concerned that that the excess water has caused their trees to die and uproot.
4. Grading is substantially higher and causing water runoff onto neighbor's property.

Doris Ulman stated that the approval had one condition which was the height and quantity of trees to be installed. The ZBA can only look at that issue and all other issues need to be brought to the attention of the Building Inspector for his action.

Mr. & Mrs. Braunstein were in attendance and stated that 43 trees were installed on 5 feet on centered as required by the plan. Ms. Braunstein is unsure of the height that was installed but will measure them.

Doris Ulman suggested that the Building Inspector and Village Engineer visit the site and report back to this Board on the height of the trees and the spacing of the trees.

1/16/19
ZBA

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

Respectfully Submitted,
Camille Guido-Downey