



ZONING BOARD OF APPEALS MEETING MINUTES

November 15, 2023 at 7:30 PM

432 Route 306, Wesley Hills, NY 10952

Phone: 845-354-0400 | Fax: 845-354-4097

CALL TO ORDER

ROLL CALL: Jonathan Gewirtz, Chairman
Richard Weinberger
Stefanie Collantes-Bouvry
Randi Marlin
Stuart Zelmanovitz
Barry Rozenberg, Ad Hoc (late)
Anita Hajioff, Ad Hoc

OTHERS PRESENT: Doris Ulman, Assistant Village Attorney
Alicia Schultz, Deputy Village Clerk

Item #1-Continued Public Hearing-Eli Amsterdam-8 Suhl Lane

Chairman Gewirtz read the public hearing notice into the record. Ira Emanuel, the attorney for the applicant, was present and affirmed. Mr. Emanuel stated that the Amsterdams have been trying to figure out a way to get their cabana compliant, as it has been a few years now and they have exhausted all their options. Mr. Emanuel stated that after discussions with the Board at the site visit, the homeowners have changed the plans to do away with the subdivision and the variances for Ms. Guadino at 95 Forshay Road and are now seeking a variance for Accessory structure rear yard of 15.7 feet, when the minimum required is 50 feet, and impervious surface ratio of .33 when existing is .32.. The proposed cabana is 30' x 13' and is 12 feet in height. Mr. Emanuel sent a letter to the Village with responses to the Rockland County agency letters and has no problem complying with the requests from said agencies.

Chairman Gewirtz asked if anyone from the public would like to speak.

No one had comments.

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

Doris Ulman stated that the applicant will need to amend the application, and remove

Ms. Guardino at 95 Forshay Road from the application, change the maximum impervious surface ratio previously approved of .32 to .33, compliance with the Rockland County Planning Department letter dated November 8, 2023, and attest that all bright lighting will be adjusted downward. Ms. Ulman added that the applicant has been in front of the Board for over 3 years and has been complying with the conditions the Village has set forth.

Stuart Zelmanovitz made a motion to approve the amended application, subject to compliance with the following Rockland County agency letters, seconded by Randi Marlin.

1. Rockland County Planning Department review memo dated November 8, 2023
2. Rockland County Highway Department review memo dated October 19, 2023
3. Town of Ramapo Department of Works review memo dated November 13, 2023

In the Matter of the Application of
Eli Amsterdam
Premises situated on the east side of Suhl Lane
approximately 250 feet north of Grandview
Avenue, known as 8 Suhl Lane, designated on the
Tax Map as Section 41.14 Block 1 Lot 27.3, in an
R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Eli Amsterdam on behalf of himself and Mona Guardino to permit the resubdivision of two lots and the maintenance and use of a cabana on premises known as 8 Suhl Lane requiring several variances on both the Amsterdam and Guardino lots, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on July 19, 2023, which hearing was continued ON August 16, 2023, September 20, 2023, October 18, 2023 and November 15, 2023, and

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

That the applicant has had several applications before the Board in an attempt to reduce the size of the variance needed for the cabana;

That the cabana was originally placed on a foundation that was legally constructed 9 feet from the rear property line and applicant did not know that the cabana needed to be 50 feet from the rear property line;

That the current application by Mr. Amsterdam on behalf of himself and Ms. Guardino permits the cabana to be 25 feet from the rear property line but creates several variances for the Guardino property;

That at the request of the Zoning Board of Appeals Mr. Amsterdam has moved the cabana further from the rear property line so that the need for the resubdivision no longer exists;

That as a result, Mr. Amsterdam now requests that the application be amended to remove the Guardino property from the application and to amend the application to request a rear yard variance of 15.7 feet for the cabana and impervious surface ratio of .33;

That at the request of a neighbor the applicant the reduced the size of the cabana to 400 square feet and the height to 12 feet; and

WHEREAS, members of the Zoning Board of Appeals visited the site on two occasions and viewed the original location of the cabana and the proposed new location; and

WHEREAS, no one appeared in opposition to the amended application,

NOW, THEREFORE 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 Eli Amsterdam on behalf of himself and Mona Guardino for variances to permit the resubdivision of two lots is hereby amended by deleting the Guardino property from the application, by deleting the request for resubdivision of the Amsterdam and Guardino properties and by amending the requested variances so that the only variances requested in this amended application are for the cabana on the Amsterdam property to be 15.7 feet from the rear property line and for impervious surface ratio of .33 on the Amsterdam property, and be it further

RESOLVED, that the amended application submitted by Eli Amsterdam to permit the maintenance and use of a cabana having a rear yard of 15.7 feet instead of the minimum required of 50 feet and impervious surface ratio of .33 instead of the existing ratio of .32 is hereby granted, subject to the following conditions:

1. That the size of the cabana shall be no larger than 30' x 13' and shall be no higher than 12 feet in height;
2. That all outside lighting shall be shaded downward;
3. Compliance with the GML review letter from Rockland County Planning Department dated November 8, 2023;
4. Compliance with Rockland County Highway letter dated October 19, 2023;
5. Compliance with Town of Ramapo Dept of Public Works letter dated November 13, 2023, and be it further

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

1. That although the variance is substantial there is no other feasible location for the cabana and the size and height of the cabana have been reduced to lessen its visual impact;
2. That environmental impacts, if any, will be minimal inasmuch as the foundation for the cabana has already been installed and has been in place for some time;
3. That the benefit to the applicant by granting the variances is substantial and any potential detriment to adjoining properties or to the neighborhood is minor and has been addressed.

Upon vote, this motion was carried unanimously.

Item #2- Continued Public Hearing-Mark Martin- 428 Route 306

Chairman Gewirtz read the public hearing notice into the record. Todd Rosenblum, the applicant's Architect, was present and affirmed. Mr. Rosenblum stated that they are seeking the following variances:

	<u>Required</u>	<u>Proposed</u>
Impervious Surface Ratio	0.25	0.33
Total Side Yard	60'	52.7'
Rear Yard for an Accessory	50'	15'

Mr. Rosenblum stated that the property is oddly located and on a flag lot. Mr. Rosenblum stated that at the site visit, Barry Rozenberg questioned how much of the impervious surface was from the driveway. Mr. Rosenblum answered that it takes up 5% of the impervious surface, so the request would be much smaller for that variance, if not for the elongated flag lot driveway. Mr. Rosenblum also stated that the applicant is putting in a walkway for the neighbors to walk to their local Shuls which adds to the need for the impervious surface ratio. Mr. Rosenblum stated that the proposed front door does not face the main roadway. Mr. Rosenblum added that the neighboring property to the west faces south, and the proposed front door would face the side of the neighboring house if they built it to face the main roadway as recommended by the Rockland County Planning Department, and it would create more variances. Mr. Rosenblum stated that Mr. Layne has provided a memo stating that he disagrees with the Planning Department and approves of the proposed front door facing south, as opposed to west towards Route 306. Mr. Rosenblum added that CivilTec will make sure the drainage achieves zero net runoff.

Ms. Ulman explained that the County Planning letter is not concerned with the front of the house but believes that the front of the lot should be the west side of the property, not the south side.

Chairman Gewirtz read the following letters of support:

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|--------------------|--------------------|------------------|
| 1. 4 Earl Court | 2. 6 Earl Court | 3. 430 Route 306 |
| 4. 4 Village Green | 5. 8 Village Green | 6. 3 Kentor Lane |

Chairman Gewirtz asked if anyone from the public would like to speak.

No one had comments.

Stefanie Collantes- Bouvry made a motion to close the Public Hearing, seconded by Barry Rozenberg. Upon vote, this motion was carried unanimously.

Chairman Gewirtz made a motion to approve the amended application, subject to compliance with the following agency letters, seconded by Richard Weinberger.

1. Rockland County Sewer District No. 1 review memo dated October 10, 2023
2. Rockland County Health Department review memo dated October 13, 2023
3. New York State Dept. of Transportation review memo dated September 22, 2023
4. Rockland County Planning Department review memo dated October 4, 2023 but overrides Paragraphs 1, 2 and 6 of said letter for the following reasons:

- A. Paragraph 1 of said letter is overridden because there is no legal authority for the Department's use of the westerly property line as the front lot line. The Wesley Hills Zoning Law defines "LOT LINE, FRONT" as "Any lot line separating the lot from the street." The only portion of the subject lot that separates it from the street is the 50 foot wide flag. Therefore, the applicant's use of the southern property line as the front lot line in order to minimize the number of variances required is no less valid than is the Planning Dept's use of the west property line as the front lot line.
- B. Paragraph 2 of said letter is overridden because it is difficult to avoid an impervious surface ratio variance when considering a flag lot. It should be noted that the flag portion of this lot accounts for 5% of the total impervious surface. In addition, the applicant is paving a walk for his neighbors to use to walk to the synagogue on Village Green which accounts for an additional 2%. This is a safety issue and avoids the necessity for people to walk on the heavily travelled Route 306.
- C. Paragraph 6 of said letter is overridden because the largest portion of impervious surface proposed on this lot is for the driveway and turnaround areas. These types of areas do not do well with pervious pavers since the pavers tend to get dirty when used in vehicle areas and, if not maintained, create drainage problems.

In the Matter of the Application of
Mark Martin
Premises situated on the east side of Route 306
across from Windmill Drive, known as 428 Route
306, designated on the Tax Map as Section 41.11
Block 2, Lot 21, in an R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Mark Martin 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 single family residence, in-ground swimming pool and cabana having rear yard of 15 feet instead of the minimum required of 50 feet, total side yard of 52.7 feet instead of the minimum required of 60 feet and impervious surface ratio of .33 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 October 18, 2023, which hearing was continued on November 15, 2023, and

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

That the property is a flag lot with 50 foot frontage on Route 306 and a 351 foot long flag to the main portion of the lot;

That the project consists of demolition of the existing house, construction of a new single-family residence, swimming pool, cabana and a walkway for neighbors to walk to the synagogue on Village Green and not have to walk along the dangerous roadway of Route 306;

That facing the front of the proposed house to the south provides the most privacy for

applicant and his neighbors and permits the least number of variances for the project;

That applicant is proposing to use the south property line as the front yard, with the north property line as the rear yard and the east and west lines as side yards;

That although the impervious surface ratio is large, 5% of it is caused by the flag portion of the lot and 2% is for the walkway for neighbors, leaving 26% or 1% more than permitted for discretionary pavement; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed the placement of the front of the residence, the proposed walkway and the flag portion of the lot, and

WHEREAS, no one appeared in opposition to the application and several neighbors sent letters in support,

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

RESOLVED, that the application submitted by Mark Martin 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 single-family residence, inground swimming pool and cabana having rear yard of 15 feet instead of the minimum required of 50 feet, total side yard of 52.8 feet instead of the minimum required of 60 feet and impervious surface ratio of .33 instead of the maximum permitted of .25 is hereby granted subject to the following:

1. Rockland County Sewer District No. 1 letter dated October 10, 2023;
2. Rockland County Health Dept Review letter dated October 13, 2023;
3. NYS Dept of Transportation Review letter dated September 22, 2023;
4. Rockland County Planning Dept GML review letter dated October 4, 2023 but overrides Paragraphs 1, 2 and 6 of said letter for the following reasons:
 - A. Paragraph 1 of said letter is overridden because there is no legal authority for the Department's use of the westerly property line as the front lot line. The Wesley Hills Zoning Law defines "LOT LINE, FRONT" as "Any lot line separating the lot from the street." The only portion of the subject lot that separates it from the street is the 50 foot wide flag. Therefore, the applicant's use of the southern property line as the front lot line in order to minimize the number of variances required is no less valid than is the Planning Dept's use of the west property line as the front lot line.
 - B. Paragraph 2 of said letter is overridden because it is difficult to avoid an impervious surface ratio variance when considering a flag lot. It should be noted that the flag portion of this lot accounts for 5% of the total impervious surface. In addition, the applicant is paving a walk for his neighbors to use to walk to the synagogue on Village Green which accounts for an additional 2%. This is a safety issue and avoids the necessity for people to walk on the heavily travelled Route 306.
 - C. Paragraph 6 of said letter is overridden because the largest portion of impervious surface proposed on this lot is for the driveway and turnaround areas. These types of areas do not do well with pervious pavers since the

pavers tend to get dirty when used in vehicle areas and, if not maintained, create drainage problems.

and be it further

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

1. That this lot, although large for the District, loses its use for approximately 18,000 square feet to the flag portion of the lot;
2. That although the impervious surface ratio is large, the variance would be minimal except for the driveway and walkway pavements;
3. That no environmental or ecological detriment to the neighborhood has been identified;
4. That the benefit to the applicant by granting the variances is substantial whereas no detriment to adjoining properties or to the neighborhood has been identified.

Upon vote, this motion was carried unanimously.

Item #3- Continued Public Hearing-Baruch and Cheryl Fruchthandler- 21 Amsterdam Avenue

Chairman Gewirtz read the public hearing notice into the record. Stanley Mayerfeld, the applicant's Architect, was present and affirmed. Mr. Mayerfeld stated that they would like to amend the application and remove the front yard impervious surface ratio variance. Mr. Mayerfeld stated that at the site visit, it was noted that this neighborhood has lots that are smaller in size than required, and that is why there are multiple variances being proposed. Mr. Mayerfeld added that there have been numerous variances granted to the neighboring properties for similar requests. Chairman Gewirtz stated that he did note at the site visit that the lot is about 80% of what an average lot size is in an R-35 Zoning District and it appears to be an average density lot.

Mr. Mayerfeld stated that they are seeking the following variances:

	<u>Required</u>	<u>Proposed</u>
Maximum Building Coverage	0.10	0.128
Min. Total Side Yard	60'	46'
Min. Side Yard	25'	21'

Stefanie Collantes-Bouvry questioned if it was intentional that the front of the home is to be narrower than the rear of the home.

Mr. Mayerfeld answered, yes it was intentionally designed that way to avoid additional variances.

Chairman Gewirtz asked if anyone from the public would like to speak.

No one had comments.

Randi Marlin made a motion to close the Public Hearing, seconded by Richard Weinberger. Upon vote, this motion was carried unanimously.

Stuart Zelmanovitz made a motion to approve the amended application, removing the maximum front yard impervious ratio variance request, seconded by Stefanie Collantes-Bouvry.

In the Matter of the Application of
Baruch and Cheryl Fruchthandler
Premises situated on the north side of Amsterdam
Avenue approximately 270 feet north of Jodi Court,
known as 21 Amsterdam Avenue, designated on the
Tax Map as Section 41.11 Block 1 Lot 38, in an
R-35 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Baruch and Cheryl Fruchthandler 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 single family residence having side yard of 21 feet instead of the minimum required of 25 feet, total side yard of 46 feet instead of the minimum required of 60 feet, front yard impervious surface ratio of .209 instead of the maximum permitted of .20 and building coverage of .128 instead of the maximum permitted of .10, and

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

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

That this is an undersized lot as are most of the lots in this neighborhood;

That the existing house will be demolished and a new two-story residence constructed to meet the needs of applicants' large family;

That the front of the house has been modified so that applicants have been able to eliminate the need for a front yard impervious surface ratio variance and applicants request an amendment to the application to remove the request for a front yard impervious surface ratio variance;

That the existing house has a side yard of 24.8 feet which is now proposed to be 21 feet and an existing total side yard of 50.8 feet which is now proposed to be 46 feet; and

WHEREAS, members of the Zoning Board of Appeals visited the site and viewed existing and proposed conditions, 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 request to amend the application to remove the request for a front

yard impervious surface ratio variance is granted, and be it further

RESOLVED, that the application submitted by Baruch and Cheryl Fruchthandler 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 single family residence having a side yard of 21 feet instead of the minimum required of 25 feet, total side yard of 46 feet instead of the minimum required of 60 feet and building coverage of .128 instead of the maximum permitted of .10 is hereby granted, and be it further

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

1. That the Zoning Board of Appeals takes judicial notice of the fact that this lot is probably an average density lot created prior to the incorporation of the Village and that side yards on average density lots were usually permitted by the Town of Ramapo to be smaller than required in the R-35 Zoning District;
2. That the variances requested are not substantial, only one being slightly more than 20% of the requirement;
3. That the construction of a new home on this lot will benefit the neighborhood and the surrounding properties;
4. That the benefit to the applicant by granting the variances is substantial whereas no detriment to adjacent properties or to the community will result from this decision.

Upon vote, this motion was carried unanimously.

Item #4- Approval of Minutes – October 18, 2023

Chairman Gewirtz made a motion to approve the October 18, 2023 minutes, seconded by Stefanie Collantes-Bouvry. Upon vote, this motion was carried unanimously.

Adjournment

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

Respectfully submitted,
Alicia Schultz