



ZONING BOARD OF APPEALS MEETING MINUTES

December 20, 2023, at 7:30 PM

432 Route 306, Wesley Hills, NY 10952

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

MEMBERS PRESENT: Jonathan Gewirtz, Chairman
Richard Weinberger, Member
Stuart Zelmanovitz, Member
Stefanie Collantes-Bouvry, Member
Randi Marlin, Member (Late)
Barry Rozenberg, Ad Hoc

ABSENT: Anita Hajioff. Ad Hoc

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

Chairman Gewirtz opened the meeting at 7:30 pm.

ITEM #1 PUBLIC HEARING - 7 ARDLEY PLACE

Chairman Gewirtz read the public hearing notice into the record.

Doris Ulman stated that the Applicant has submitted an email requesting an adjournment to the January 17, 2024, meeting.

Stefanie Collantes-Bouvry made a motion to adjourn this application to the January 17, 2024, meeting, seconded by Barry Rozenberg. Upon vote, this motion was carried unanimously.

ITEM #2 PUBLIC HEARING – 12 DIKE DRIVE

Chairman Gewirtz read the public hearing notice into the record.

Todd Rosenblum, Architect for the Applicant was present and affirmed. Mr. Rosenblum stated that this project was before the Zoning Board on June 21, 2023. The engineer for the Applicant made a mistake on the plan and did not place the dimensions on the plan of the rear lot line for the cabana. After review, it was determined that the proposed cabana is 15' feet from the rear lot line. The rear set back is 50'. The Applicant has moved the cabana an additional 7.5' however a variance is being requested. The Applicant is trying to preserve the rear yard, mature trees and the already constructed patio. The applicant is requesting a 22.5' rear yard variance for the cabana. Mr. Rosenblum stated that a site visit

was already preformed for the previous variances, and if the Board remembers this is the home that the neighbor has the large 40' high pine trees that provided ample screening. Mr. Rosenblum added that the Applicant is also installing 8' trees to add to the screening. Mr. Rosenblum provided a second letter of support from the neighbor at 2 Roven Road.

Chairman Gewirtz opened the meeting to the public.

No one wished to speak.

Chairman Gewirtz stated that he is concerned that this is a large variance and at the time of the site visit himself and the Board Members were focused on the locations of the other variances.

Richard Weinberger questioned if a GML review was required for this application?

Chairman Gewirtz answered no.

Board Members discuss alternate locations for the cabanas and pool.

Chairman Gewirtz reminded Mr. Rosenblum that the Zoning Board has to determine the approval of a variance by using a balancing test and Applicant wanting an open backyard is not a reason for a variance.

Board Members stated that they do not feel that a site visit is needed.

Richard Weinberger reminded the Board that we have already approved variances and stated that there is no significant impact to the area or neighbors.

Chairman Gewirtz made a motion to close the public hearing, seconded by Richard Weinberger. Upon vote, this motion was carried unanimously.

Richard Weinberger made a motion to approve the Application of Michael & Adina Finkelstein based on the following observations:

Zoning Board approved previous variances.

No impact to the community

No impact to the neighbors

In the interest of justice due to the administrative error of the Applicants Engineer

Seconded by Stuart Zelmanovitz:

**In the Matter of the Application of
Michael and Adina Finkelstein
Premises situated on the northwest corner of
Dike Drive and Roven Road, known as 12 Dike
Drive, designated on the Tax Map as Section
41.06 Block 1 Lot 41, in an R-35 Zoning District**

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of

Wesley Hills by Michael and Adina Finkelstein 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 cabana having a rear yard of 22.5 feet instead of the minimum required of 50 feet, and

WHEREAS, after due notice, a public hearing on said application was held on December 20, 2023, and

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

That variances for the single-family residence, inground swimming pool and cabana were granted by the Zoning Board of Appeals on June 21, 2023;

That when the prior application was made, the applicant's engineer inadvertently omitted the rear yard dimension for the cabana which, at that time, was proposed to be placed 15 feet from the rear property line;

That as a result, a rear yard variance for the cabana was not considered by the Board;

That applicant has been able to move the cabana 7.5 feet further from the rear lot line and is now asking the Board to correct the omission and approve a rear yard variance of 22.5 feet;

That the variance will not impact the neighbors of the community since there are 40-foot-high trees on the neighbor's property and applicant will be installing 8-foot-high trees to screen the cabana; and

WHEREAS, members of the Board had visited the site in June and recollected the placement of the cabana and the existing trees which provided substantial screening, and

WHEREAS, no one appeared in opposition to the application, and the affected neighbor issued a letter in support,

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 Michael and Adina Finkelstein for a variance from the provision of Section 230-17 Attachment I of the Code of the Village of Wesley Hills, to permit the construction, maintenance and use of a cabana having a rear yard of 22.5 feet instead of the minimum required of 50 feet is hereby granted, subject to the same conditions listed in the Zoning Board of Appeals decision of June 21, 2023, and be it further

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

1. The **FINDINGS OF FACT** set forth in the Zoning Board of Appeals decision of June 21, 2023 apply as well to this decision;
2. The failure to include the rear yard dimension and request for variance in the prior application was an administrative error and the interest of justice supports the granting of the variance to correct that error;

3. The benefit to the applicant by granting the variance is substantial and no detriment to adjoining properties or to the neighborhood has been identified.

Upon vote, this motion was carried unanimously.

ITEM #3 DISCUSSION - LOCAL LAW AMENDING THE ZONING CODE OF THE VILLAGE OF WESLEY HILLS IN RELATION TO THE REGULATION OF SIGN PERMITS.

Doris Ulman read in the record the proposed local law change.

Board Members were not in favor of removing a review process from the Planning Board and giving all the review and approval power to one individual to interpret the view of the Village in reference to signs.

Doris Ulman will provide that message to the Village Board.

Item #4 -APPROVAL OF MINUTES – November 15, 2023

Randi Marlin made a motion to approve the November 15, 2023, minutes, seconded by Barry Rozenberg. Upon vote, this motion was carried unanimously.

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

Respectfully submitted,
Camille Guido-Downey