

MINUTES
BOARD OF APPEALS
VILLAGE OF WOODSBURGH
VILLAGE HALL
30 PIERMONT AVENUE
HEWLETT, NEW YORK

May 17, 2023

Present: Steven Rabinoff, Chair
Fred Schornstein and David Lasky, Members
Dena Pilevsky, Alternate Member
Dana Garraputa, Board Clerk
Brian S. Stolar, Esq., Village Attorney

The meeting was called to order at 7:00 p.m.

The Board opened the public hearing on the application of WFIT 127 LLC, 830 Barberry Road, Woodsburgh, New York, to maintain air conditioning units, a recreational court, gas meter and playset, which maintenance requires an amendment of the terms and conditions of a previous Board of Appeals determination and variances of the following Village Code sections: (a) 150-50.2, to permit an air conditioner unit 5.33 feet from a property line, where no air conditioner or similar equipment is permitted within 15 feet of a property line, (b) 150-39(G)(7), to permit a recreational court in a front yard, where no such court is permitted, (c) 150-39(G)(8), to permit the court to not be completely enclosed within a chain link fence, (d) 150-39(G)(9), to permit the fence and court to not be completely screened by a living screen of coniferous trees, at least 4 feet in height when planted and planted 5 feet on center, (e) 150-39(B), to permit impervious coverage of 16,577.8 square feet, where a maximum of 16,315 square feet is permitted, (f) 150-39(B), to permit five (5) air conditioning units in a front yard, where no unit or similar equipment shall be located in a front yard, (g) 150-39(E), to permit a gas meter in a front yard where no such structure is permitted in a front yard. The applicant also seeks

to amend the conditions of a May 22, 2018 conditional approval in relation to the recreational court, which conditions included installation of a 6 foot high chain link fence along the easterly and southerly perimeters of the court, evergreen screening to be planted immediately outside the fencing, at a height of at least 6 feet and maintained and planted so as to prohibit views of the court from the public way and a prohibition of lighting on the court. Premises are designated as Section 41, Block 68, Lot 376 on the Nassau County Land and Tax Map.

The application was presented by Aaron Wexler, a member of the entity that owns the property. The hearing was stenographically transcribed. After hearing testimony and there being no other person seeking to provide testimony, on motion by the Chair, seconded by Mr. Lasky, and adopted unanimously, the Board closed the hearing, and reserved decision.

On motion made by the Chair, seconded by Mr. Lasky, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review and that the application is a Type II matter under SEQRA which requires no environmental review.

The Board discussed the 830 Barberry application. After such discussion, on motion made by the Chair, seconded by Mr. Lasky, and approved unanimously, the Board adopted the following short form decision:

**WFIT 127 LLC SHORT FORM DECISION
(adopted in accordance with Village Code §150-56.1)**

1. WFIT 127 LLC, 830 Barberry Road, Woodsburgh, New York, applied to maintain air conditioning units, a recreational court, gas meter and playset, which maintenance requires an amendment of the terms and conditions of a previous Board of Appeals determination and variances of the following Village Code sections: (a) 150-50.2, to permit an air conditioner unit 5.33 feet from a property line, where no air conditioner or similar equipment is permitted within

15 feet of a property line, (b) 150-39(G)(7), to permit a recreational court in a front yard, where no such court is permitted, (c) 150-39(G)(8), to permit the court to not be completely enclosed within a chain link fence, (d) 150-39(G)(9), to permit the fence and court to not be completely screened by a living screen of coniferous trees, at least 4 feet in height when planted and planted 5 feet on center, (e) 150-39(B), to permit impervious coverage of 16,577.8 square feet, where a maximum of 16,315 square feet is permitted, (f) 150-39(B), to permit five (5) air conditioning units in a front yard, where no unit or similar equipment shall be located in a front yard, (g) 150-39(E), to permit a gas meter in a front yard where no such structure is permitted in a front yard. The applicant also seeks to amend the conditions of a May 22, 2018 conditional approval in relation to the recreational court, which conditions included installation of a 6 foot high chain link fence along the easterly and southerly perimeters of the court, evergreen screening to be planted immediately outside the fencing, at a height of at least 6 feet and maintained and planted so as to prohibit views of the court from the public way and a prohibition of lighting on the court. Premises are designated as Section 41, Block 68, Lot 376 on the Nassau County Land and Tax Map (the "Premises").

2. The applicant owns the Premises.
3. The applicant previously applied for similar relief to permit (a) the recreational court (i) in a front yard, (ii) without completely enclosing the court with a chain link fence, and (iii) without screening the fence and court with a living screen of coniferous trees, at least 4 feet in height when planted and planted 5 feet on center, and (b) the air conditioner unit to be located 5.33 feet from a property line where a minimum of 15 feet is required. Other relief was sought at the same time.
4. By decision made on May 22, 2018 (the "Previous Decision"), the Board made the following relevant determinations:
 - a. As to the recreational court, the Board granted the variances on the condition that a 6 foot high chain link fence be placed along the easterly and southerly perimeters of the court and that evergreen screening be planted immediately outside the fencing, at a height of at least 6 feet and maintained and planted so as to prohibit views of the court from the public way and there shall be no lighting for the recreational court; and
 - b. As to the air conditioning unit, the Board denied the variance.
5. The applicant seeks to modify the Previous Decision to permit the court to remain without the fencing or screening and to permit the air conditioning unit to remain despite the previous denial.
6. As to the recreational court, the Board reaches the same conclusion as the previous decision and grants the variances necessary to maintain the court on the condition that a 6 foot high chain link fence be placed along the easterly

and southerly perimeters of the court and that evergreen screening be planted immediately outside the fencing, at a height of at least 6 feet and maintained and planted so as to prohibit views of the court from the public way and there shall be no lighting for the recreational court.

7. As to the air conditioning unit, the Board modifies the Previous Decision to permit the unit to remain 5.33 feet from the property line, on the condition that 4-foot-high evergreen plantings be planted and maintained in a manner that eliminates the unit from being viewed from the neighboring property and mitigates the sound emanating from the machine.
8. As to the additional five (5) air conditioning units, the Board grants the variance to permit the units to remain, subject to the units being screened from public view by 4-foot-high evergreen plantings.
9. As to the gas meter, the existing hedges restrict the view of the gas meter, and the Board grants the variance to permit the meter to remain so long as the hedges are maintained.
10. As to the playset, the Board grants the variance on the condition that 6-foot-high evergreen plantings be planted and maintained in a manner that eliminates the playset from being viewed from the public way.
11. The Board also grants the variance to permit the impervious coverage to remain.
12. As a further condition of the variances granted herein, (a) no later than six (6) months after the filing of this decision with the Village Clerk, the applicant shall obtain necessary building permits, (b) within one (1) year of the issuance of a building permit, the applicant shall obtain all required certificates of occupancy and/or completion for the improvements, to the extent approved herein, and (c) all approved and authorized work shall conform to the plans submitted with this application.

The Board opened the public hearing on the application of Shmuel and Raizel Weiss, 847 Ivy Hill Road, Woodsburgh, New York, to maintain a swimming pool and fencing, which work requires variances of the following Village Code sections: (a) 150-47(H), in that (i) the swimming pool was installed at 23.5 feet from the front property line, where the Board previously approve a setback of 25 feet and no pool may be installed in a front yard, and (ii) the pool fencing will be located on the property line at Hickory Road, where the minimum required setback is 25 feet and the Board previously granted a fence

5 feet from the property line, and 9b) 150-5(B), in that the fence installed has a height of 5 feet, where the maximum permitted height is 4 feet. Premises are designated as Section 41, Block 112, Lot 7 on the Nassau County Land and Tax Map.

The application was presented by Christina Bravo. The hearing testimony was recorded and stenographically transcribed.

After hearing the testimony from the applicant's representative and there being no other person seeking to provide testimony, on motion by the Chair, seconded by Mr. Lasky, and adopted unanimously, the Board closed the hearing, and reserved decision.

On motion made by the Chair, seconded by Mr. Lasky, and adopted unanimously, the Board determined that it is the lead agency with respect to environmental review and that the application is a Type II matter under SEQRA which requires no environmental review.

The Board discussed the 847 Ivy Hill Road application. After such discussion, on motion made by the Chair, seconded by Mr. Lasky, and approved unanimously, the Board adopted the following short form decision:

**847 IVY HILL ROAD (WEISS) SHORT FORM DECISION
(adopted in accordance with Village Code §150-56.1)**

1. Shmuel and Raizel Weiss, 847 Ivy Hill Road, Woodsburgh, New York, to maintain a swimming pool and fencing, which work requires variances of the following Village Code sections: (a) 150-47(H), in that (i) the swimming pool was installed in a front yard, 23.5 feet from the front property line, where the Board previously approved the pool to be in the front yard, 26.1 feet from the Hickory Road property line a setback of 25 feet and no pool may be installed in a front yard, and (ii) the pool fencing will be located on the property line at Hickory Road, where the minimum required setback is 25 feet and the Board previously granted a fence 5 feet from the property line, and (b) 150-50(B), in that the fence installed has a height of 5 feet, where the maximum permitted height is 4 feet. Premises are designated as Section 41, Block 112, Lot 7 on the Nassau County Land and Tax Map (the "Premises").
2. The applicants own the Premises.

3. The applicant previously applied for variances to construct the pool in the front yard, 26.1 feet from the Hickory Road, with swimming pool barrier fencing located 5 feet from the Hickory Road front property line, and other related improvements. The Board granted those variances on June 25, 2020 (the "Previous Approval").
4. Subsequent to that grant, the applicant installed a pool and fencing. A portion of the installed fencing is located beyond the front property line and extending into the Hickory Road right-of-way. The applicant now seeks approval to relocate the fencing, and permit fencing to be located, along the property line. To permit the fencing in such location, the applicant requires an amendment of the Previous Approval and a variance of Village Code §150-47(H) to permit the fencing to be located along the property line where a minimum setback of 25 feet is required.
5. Despite the approved plans depicting the pool to be located 26.1 feet from the Hickory Road front property line, the applicant installed the pool only 23.5 feet from the Hickory Road front property line. To permit the pool in such location, the applicant requires an amendment to the Previous Approval and a variance of Village Code §150-47(H) to permit the pool to be located in a front yard and within 23.5 feet of the front property line.
6. The Board denies the request to amend the Previous Approval and the variances to maintain the pool in a front yard 23.5 feet from the front property line and the fencing on the property line. As to the fence height, the Board grants the variance to install the fencing in a compliant location at a height of 5 feet.
7. The sole variance granted herein is granted on the condition that no later than six (6) months after the filing of this decision with the Village Clerk, the applicants shall any necessary building permit, and (b) within one (1) year of the issuance of a building permit, the applicants shall obtain all required certificates of occupancy and/or completion for the 5 foot high estate style fencing.

There being no further business, the meeting was adjourned at 7:45 pm.

THE ABOVE MINUTES WERE FILED IN
 THE OFFICE OF THE VILLAGE CLERK
 OF THE VILLAGE OF WOODSBURGH AT

DATE: _____, 2023
 (Month) (Day)

PERSON FILING: _____
 # ##### # #####(Print full name of filer)