

PLANNING BOARD  
VILLAGE OF WESLEY HILLS

NARRATIVE SUMMARY

12A MARTHA ROAD  
Tax Lot 41.14-1-62

Mark and Devorah Friedman are building their new home at 12A Martha Road. In 2020, they applied for and received variances, largely due to the unusual shape and configuration of the lot. As the design progressed, the Friedmans realized that additional work was needed. The revised plan adds a tennis court, relocates the swimming pool, replaces a gazebo with a pool cabana, and reconfigures the driveway and parking pad. The size of the proposed tennis court triggers the need for a special permit from this Board under § 230-140(4)(b). Special permits also require approved site plans.

The site is on the east side of Martha Road, approximately 350 feet from Grandview Avenue in an R-50 zone. The existing home was demolished. In its place the Friedmans are building a new single-family home with decks, patios, a swimming pool and a pool cabana. To accomplish this, this Board granted the following variances:

<u>Dimension</u>	<u>Required</u>	<u>Approved</u>
Rear yard (swimming pool and poolhouse)	50ft	33ft
Impervious surface ratio	0.20	0.26
Front yard impervious surface ratio	0.15	0.169

A copy of the variance resolution dated September 16, 2020, is annexed as Exhibit 1.

Since that time, the plans have progressed and changed. The original driveway included a circular turnaround and small parking pad. The new driveway reduces the radius of the turnaround and enlarges the parking pad.

The Friedmans want to slightly relocate the swimming pool and replace a gazebo with a pool cabana. Their home and pool are clustered at the north end of their lot, leaving the entire southern half open.

The southern half of the site is relatively flat, having the perfect topography for the court. The tennis court is to be located in the southeastern corner of the lot.<sup>1</sup> A gravel walkway will lead to an open pergola adjacent to the tennis court.

The swimming pool will be moved inward. The pool cabana will also be more inward than was the gazebo. However, the pool patio will be wider than originally proposed.

The changes are shown on an overlay drawing, submitted herewith as Sheet 4 of 5. The front lot line is the westerly lot line, parallel to Martha Road. The rear lot line is the easterly line; the side lot lines are the northerly and southerly lot lines. (North on the drawing is toward the right.) The changes trigger the need for additional variances:

<u>Dimension</u>	<u>Required<sup>2</sup></u>	<u>Proposed</u>
Side yard (pool cabana) <sup>3</sup>	30 ft	25 ft
Rear yard (house – SE corner)	33 ft <sup>4</sup>	31.9 ft
Impervious surface ratio	0.26	0.36
Front yard impervious surface ratio	0.169	0.23
Accessory structures <sup>5</sup>	2	4

The Friedmans will apply for these new variances at the appropriate time.

### ***Special Permit Standards***

A special permit is required for an accessory use having an area greater than 2500sf. The proposed tennis court is considered an accessory use (sports court) and is larger than the threshold.

A special permit, or special use permit, is defined as,

an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.<sup>6</sup>

Uses that are allowed under a special permit

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<sup>1</sup> Tennis courts may be located 15 feet from a side or rear lot line. Zoning Code § 230-14.O.(4)(a).

<sup>2</sup> Required dimensions for impervious surface ratio and front yard impervious surface ratio reflect the variances previously granted.

<sup>3</sup> The pool cabana is greater than 100 sf in size and therefore does not qualify for a shallower required yard.

<sup>4</sup> Per variance granted Sept. 16, 2020.

<sup>5</sup> Swimming pool, pool cabana, tennis court, pergola. Zoning Code, § 230-14.O.(6). In addition, § 230-14.O(4)(b) requires a special permit from the Planning Board for accessory structures larger than 2,500sf. The tennis court will require such a special permit.

<sup>6</sup> Town L. § 274-b.1.

have been determined to be compatible with the allowed uses in the district, but to ensure that the character of the community and other public health, safety and welfare concerns are protected, permits relating to those uses are not automatic, but are rather subject to review by a designated municipal board [citations omitted].<sup>7</sup>

Unlike a use variance, a special permit use is “tantamount to a legislative finding that the permitted use is in harmony with the zoning and will not adversely affect the neighborhood.”<sup>8</sup> As such, “it must be granted where the articulated conditions have been met unless there exists a reasonable ground for denial supported by substantial evidence.”<sup>9</sup>

The need for area variances does not constitute non-compliance with the “articulated conditions”:

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.<sup>10</sup>

Special permits run with the land, and are not limited to the individual applicant or property owner.<sup>11</sup>

There are no special conditions that apply, so the proposed use only needs to meet the general standards of § 230-22:

*A. The location and size of the special permit use, the nature and intensity of the operations involved in it or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the area in which it is located.*

New York courts have discussed this type of condition:

As a starting point, it is well settled that the inclusion of a permitted use in a [\*13] zoning law “is tantamount to a legislative finding that the permitted use is in harmony with the general zoning plan and will not adversely affect the local community” (*Matter of WEOK Broadcasting Corp. v Planning Bd. of Town of Lloyd*, 79 NY2d 373, 383 [1992]; see *RPM Motors v Gulotta*, 88 AD2d 658, 658 [1982]). The same is true of a permitted use that is subject to a special use permit (see *Matter of Retail Prop. Trust v Board of Zoning Appeals of Town of Hempstead*, 98 NY2d 190, 195 [2002], *Matter of Blanchfield v Town of Hoosick*, 149 AD3d 1380,

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<sup>7</sup> 2 Salkin, *New York Zoning Law and Practice* (4<sup>th</sup> ed.), § 30:1.

<sup>8</sup> *Id.* at § 30:2.

<sup>9</sup> *Id.*

<sup>10</sup> Town L. § 274-b.3.

<sup>11</sup> *St. Onge v. Donovan*, 71 N.Y.2d 507, 527 N.Y.S.2d 721 (1988).

1383 [2017]. Indeed, in terms of the project's harmony with the general zoning plan, a use subject to a special use permit is a permitted use, except that the applicant must "demonstrate compliance with the conditions legislatively imposed upon the permitted use" (*Matter of Troy Sand & Gravel Co., Inc. v Fleming*, 156 AD3d 1295, 1299 [2017] [internal quotation marks and citation omitted; emphasis added], lv denied 31 NY3d 913 [2018]). Thus, although the project requires a special use permit, [fn omitted] the proposed use is still one that is permitted and this, indeed, is "tantamount" to a finding of compatibility with Local Law No. 4 (*see Matter of Blanchfield v Town of Hoosick*, 149 AD3d at 1383).<sup>12</sup>

The subject neighborhood is seeing the construction or reconstruction of larger homes with more amenities.

15 Judith Lane, one lot south of the subject and across Judith Lane (approx.. 280 feet away), has a tennis court close to its rear lot line. The court enclosure measures over 6,800 sf.<sup>13</sup>

219 Willow Tree Road (approx.. 900 feet away) has a 5,300 sf tennis court enclosure.

95 Forshay Road (approx.. 1490 feet away) has a 7,400 sf tennis court enclosure.

A map showing the relative proximity of these properties is attached as Exhibit 2.

The playing surface of a standard tennis court is 2,808 sf. With sidelines and enclosure, 7,200sf is needed.<sup>14</sup> Thus, any tennis court will require a special permit.

*B. The location, nature and height of buildings, walls and fences and the nature and extent of existing or proposed plantings on the site are such that the special permit use will not hinder or discourage the appropriate development and use of adjacent land and buildings.*

The proposed tennis court is located in a corner of the subject property, within bounds and away from the remainder of the developed area of the property. Yard variances are not needed for the tennis court.

*C. Operations in connection with any special permit use will not be more objectionable to nearby properties by reason of noise, traffic, fumes, vibration or other characteristics than would be the operations of permitted uses not requiring a special permit.*

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<sup>12</sup> *Matter of Hart v. Town of Guilderland*, 2021 N.Y. App. Div. LEXIS 4367, \*12; 2021 NY Slip Op 04273

<sup>13</sup> Measurements in this section are based on the aerial photographs in the Rockland County Geographic Information System.

<sup>14</sup> <https://www.harrodsport.com/advice-and-guides/tennis-court-dimensions>

Tennis courts are similar to other sports courts with bouncing balls, such as half-court basketball courts (900sf)<sup>15</sup> or pickleball courts (1600sf)<sup>16</sup>. Neither require a special permit as they are smaller than 2500sf.

*D. Parking and loading areas will be of adequate size for the particular special permit use, properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum convenience and safety.*

No additional parking or loading areas are required.

*E. The special permit use will not result in diminution of the value of property in the neighborhood or a change in the character of the neighborhood in which the use would be situated.*

The proposed tennis court is in keeping with amenities associated with larger, more expensive homes now being built.


### ***SEQRA and GML status***

This is an Unlisted action under SEQRA. A short EAF is submitted herewith.

The property is within 500 feet of Grandview Avenue (County Route 80), the Town of Ramapo, and the Village of Montebello. As such, referral to the Rockland County Planning Department is required under General Municipal Law § 239-m and -nn.

Dated: March 18, 2025  
New City, New York

EMANUEL LAW, PC

By:   
Ira M. Emanuel

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<sup>15</sup> <https://modutile.com/basketball-half-court-dimensions/#:~:text=Basketball%20Three%2DPoint%20Line%20Distance,the%20outside%20of%20the%20lines.>

<sup>16</sup> <https://www.ppatour.com/building-a-pickleball-court/#:~:text=COURT%20DIMENSIONS:,%2C%20doubles%2C%20and%20mixed%20doubles.>

In the Matter of the Application of  
Mark Friedman  
Premises situated on the east side of Martha  
Road approximately 350 feet from Grandview  
Avenue, known as 12A Martha Road, designated  
on the Tax Map as Section 41.14 Block 1 Lot 62,  
in an R-50 Zoning District

WHEREAS, application has been made to the Zoning Board of Appeals of the Village of Wesley Hills by Mark Friedman 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 poolhouse having a rear yard of 33 feet instead of the minimum required of 50 feet, impervious surface ratio of .26 instead of the maximum permitted of .20 and front yard impervious surface ratio of .169 instead of the maximum permitted of .15, and

WHEREAS, after due notice, a public hearing on said application was held by the Zoning Board of Appeals on August 19, 2020, which hearing was continued on September 16, 2020, and

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

That this is a flag lot and the house is set far back on the property, which is the reason for the rear yard variance;

That the house to be constructed has a larger rear yard than the one that has been demolished;

That in addition to the flag, there is also an existing circular driveway that will remain, thus requiring the need for an impervious surface variance and a front yard impervious surface variance;

That the property in the rear is privately owned and is a large vacant lot; the rear yard variance does not impact the neighbor; and

WHEREAS, members of the Zoning Board of Appeals visited the site to view the proposed construction; and

WHEREAS, one neighbor appeared in support of the application and 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 application submitted by Mark Friedman 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, pool and poolhouse having a rear yard of 33 feet instead of the minimum required of 50 feet, impervious surface of .26 instead of the maximum permitted of .20 and front yard impervious surface of .169 instead of the maximum permitted of .15 is hereby approved, subject to the following conditions:

1. Rockland County Highway Department letter dated September 11, 2020;
2. Rockland County Center for Environmental Health letter dated September 11, 2020;
3. Rockland County Sewer District No. 1 letter dated September 11, 2020; and be it further

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

1. That there is no feasible alternative to granting the variances, which are required because of the existing flag lot and circular driveway, limiting the amount of land available for construction of the house, pool and poolhouse;
2. That the house, pool and poolhouse will not be visible from the street or from adjoining properties except for one, so will have no effect on adjoining properties or other properties in the neighborhood;
3. That the house, pool and poolhouse are similar to other improvements in the neighborhood and will not change the character of the neighborhood;
4. That the benefit to the applicant by granting the variances is substantial, whereas no detriment to adjoining properties or to the community has been identified.



# Re: 12A Martha Rd

Nearby tennis court locations

## Legend

12A Martha Rd

219 Willow Tree Road

95 Forshay Road

12A Martha Rd

15 Judith Lane

Google Earth

Image © 2025 Airbus

1000 ft



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