

Can I Oppose my Neighbor's Plan to Extend His House Before a Local Zoning Board?

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Question: My neighbor wants to build an extension onto his house that I feel will negatively affect me. He needs a variance from the local Zoning Board in order to do so. Am I permitted to object before the board?

Answer: In olden times, Jews were confined to ghettos, where there was a very limited amount of living space. The Maharik discusses a case where a newcomer wants to take up residence in the ghetto but the old residents oppose his presence because he will occupy space that they cannot afford to give away. He says that the residents would be permitted to petition the local squire in order to prevent this Jew from moving in and this would not be forbidden under the category of going to a secular court. He compares this to a case brought in the Mishnah of a man who spots a lost object and falls on it. The Gemara explains that since the man did not make a valid *kinyan* on the object, others may grab it away from him. Presumably, the original man who fell on it can also do whatever he can to keep them away and retain it for himself.

The Maharik says that the space in the ghetto can be compared to the lost object in the Mishnah. Since the land the man wants to occupy is currently ownerless, he has a right to try to grab it for himself. However, the current residents, who have already “fallen” on the spot, also can do whatever it takes to prevent him from acquiring it, including petitioning the local authorities to keep him away.

Note, however, that the Bais Yosef disagrees with this comparison and does not permit petitioning the authorities in this manner.

There is an additional question about whether one is ever permitted to oppose the construction of a shul. The Pischei Teshuva says that even according to the Maharik, one would only be able to use the authorities to prevent the building of a private home but not to prevent the building of a shul. However, the Divrei Chaim clearly argues and says that the Maharik's reasoning can be used even to prevent a shul from being built.