

Is One Allowed to Sue In Court to Have a Neighbor's Building Variance Revoked?

Rav Shmuel Honigwachs

Question: Reuven needed a variance for a construction project. His neighbor, Shimon, claimed that he would be negatively impacted by that variance. He went to the zoning board and tried to stop it but the board ruled in favor of Reuven and granted the variance. Shimon still has one more venue to stop the variance from being adopted, which is to litigate. Is he permitted to go to court and assert his right to have the variance's approval revoked?

Answer: We previously explained that the Maharik says that one has a right to oppose a neighbor's request for a variance before a zoning board because the neighbor has not obtained what he wants yet. He compares this to a "*metziah*" and says that everyone has the right to stop someone from getting a *metziah*. That reasoning would only apply to something that the neighbor doesn't have yet. If he already received the variance and a neighbor now wants to sue in court to get it revoked, there would be a strong argument to say that the Maharik's ruling does not apply in that situation; therefore, I would posit that it would not be permitted.