

May One Lobby a Zoning Board to Prevent His Neighbor From Getting a Variance?

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Question: Generally speaking, what are a person's rights when it comes to zoning laws?

To give a specific example: Reuven wants to build a fairly typical type of construction, and nothing in the halachos of *nizkei shcheinim* dictates that he can't do what he wants to do. However, he needs a variance from the local zoning board to get the zoning he needs for his project. His neighbor Shimon is opposed to the project and wants to stop it by lobbying the zoning board not to grant the variance. Is he allowed to do that?

Answer: This is a very common situation.

First of all, if the construction won't affect Shimon at all, he doesn't have the right to prevent it. In such a case, the rule of "*kofin al middas Sodom*" applies, we do not allow someone to stop another from gaining a benefit when he gains nothing by doing so.

In a case where Shimon is negatively affected, there is a dispute amongst the Poskim if he is allowed to speak to zoning officials to stop someone from building when he doesn't have any claim according to Choshen Mishpat. The actual case the Poskim discuss is when someone is trying to move into a ghetto and needs permission from a local governor to move in. The Maharik rules that someone who is going to be negatively affected may lobby the governor to prevent the other person from moving in. He says that he may do so because the person is trying to obtain something that he didn't own until now. He calls this a "*metziah*", and says that everyone has the right to stop someone from acquiring such a *metziah*. The Bais Yosef disagrees and says that this is a terrible thing to do and that doing so is similar to *mesirah*.

Practically speaking, many Poskim, including the Rema, accept the Maharik's position. That is why the *minhag* is to allow people to go to a zoning board to try to prevent a neighbor from getting a variance.