



Shabbos Daf Zaiyin

A House that isn't a Height of 10 Tefachim

בשבת דף ז': גופא אמר רב גידל אמר רב חייא בר יוסף אמר רב בית שאן תוכו עשרה וקריו משלימו לעשרה, על גג מותר לטלטל בכלו, בתוכו אין מטלטלין בו אלא בארבע אמות. אמר אבוי ואם חקק בו ארבעה על ארבעה והשלימו לעשרה, מותר לטלטל בכלו, מאי טעמא הוי חורי רשות היחיד, וחורי רשות היחיד כרשות היחיד כרשות היחיד דמו וכו'.

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The difference between Walls on Shabbos and the Walls of a Sukkah

A hole that isn't close to the wall helps on Shabbos, but not for the walls of a Sukkah / If the actual walls of the house needs to be 10 tefachim

- תוס', תו"י, רא"ש, מג"א, יד אפרים, רשב"א ור"ן, בית מאיר -

[❧] It is clear from our *Gemara* that a house under the height of 10 *tefachim* has the *din* of a *karmelis* where one can only carry something the distance of 4 *amos*. This is because for an area to be classified as a private domain it needs to have a height the *shiur* of 10 *tefachim*. [1] [2]

However, if one digs a 4 by 4 *tefach* hole inside the house with a depth of 10 *tefachim* then that space has the *din* of a private domain. Not only does this space have the *din* of a private domain, it even spreads to the surrounding areas to give them this *din* as well. This works through the *din* applicable to the holes of a private domain. [3]

From the general language used by the *Gemara* it implies there is no difference concerning where such a hole is dug. What comes out is that even if the hole is very distant from the walls of the house it nevertheless still constitutes a private domain.

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The difference between a roofed in house and a chatzeir without a roof

- ר"ן, ר"ה, מנחת פתים -

[1] The *Ran*²⁸ comes to explain this *din* that it is *assur* to carry in a house lacking a height of 10 *tefachim*. He writes that because its dimensions make it unfit for normal living, it therefore gets the classification of a *karmelis*. *Rabbeinu Chananel* similarly writes that because it is unfit for living its wall don't help for anything. It is considered as if it doesn't have walls at all. Both of their statements are cited in the *Mishna Berurah*²⁹ in the *Shaar Tzion*³⁰.

The *Minchas Pittim*³¹ clarifies that from the words of the *Ran* it is clear this *din* is specifically applicable to a house which is roofed in. Since it is low and doesn't have the airspace of 10 *tefachim* that is why one isn't allowed to carry there even though the external walls of the house themselves are 10 *tefachim*. On the other hand, this would not be true for a *chatzeir* without a roof. There it would be enough for the external walls to be 10 *tefachim*. Even if the ground is raised to the point where the inner walls are less than 10, nevertheless the fact that it isn't roofed in still makes it fit for dwelling. Therefore, such an area would have the *din* of a private domain.

He continues that this is also clear from the *din* that a depth and wall of 5 *tefachim* can combine. We see this where the *Shulchan Aruch*³² writes that a 5 *tefach* mound can have a 5 *tefach* wall added to it to complete the full *shiur*. These dynamics would apply as well to a raised *chatzeir* where the external wall actually has the complete *shiur* of 10 *tefachim*. One would definitely be able to carry within it as it should be no worse than a case where a raised *chatzeir* actually has a 5 *tefach* wall added to complete the *shiur*. There the fact that the ground itself isn't completely fenced in doesn't prevent it from having the *din* of a private domain. It is only a house without 10 *tefachim* that has the *din* of a *karmelis* since it is unfit for living by not having the full airspace.

Whether or not min hatorah a house without 10 tefachim has the din of a private domain

- ביאור הלכה, חזון איש -

[2] We have mentioned the *din* that a house without 10 *tefach* walls is considered to be like a *karmelis*. Regarding this, the *Biur Halacha*³³ writes to explain by saying that if one is *motzi* something from such a place into a public domain he is not *chayiv*. It is in this respect that it is treated like a *karmelis*. However, he continues that in truth there is what to wonder if perhaps *min hatorah* its *din* is to be like a private domain. It may be possible to say it is only *m'drabbanan* that we act stringently to treat it like a *karmelis* and say it is *assur* to carry there. There is even a slight support to this from how the *Gemara* states that one shouldn't carry more than 4 *amos* in such a place. It could have simply stated that its *din* is to be like a *karmelis*. In not doing so the implication is that in truth it really is a private domain yet nevertheless one still may not carry there. The difference this makes is concerning whether or not one who is *motzi* from there would need to bring a *Korban Chatas*.

The *Chazon Ish*³⁴ also brings this *safek* of the *Biur Halacha*. However, he proves from *Tosafos*'s explanation of the *Gemara* that such a house is considered a *makom pettur* even *min hatorah*. Therefore, one would be *pettur* when being *motzi* from there.

Where the hole itself is 10 tefachim deep if the rest of house can be considered holes of a private domain

- שפת אמת -

[3] We have mentioned the *Gemara* states that the surrounding areas around the hole also get the *din* of a private domain because they are considered to be holes of a private domain. The *Sfas Emes* reasons to say this is true specifically when dealing with a hole

On the subject, *Tosafos*¹ *b'shem* the *Riva* raises an interesting question. In *Sukkah*² this *din* is also taught that a hole can be dug to make up the 10 *tefachim* necessary for a *Sukkah* to be valid. However, there the *Gemara* asserts that this only helps where the hole is made at a distance no more than 3 *tefachim* from the walls. If it is more than 3 *tefachim* away, the *Sukkah* is still *pasul*. Using this information *Tosafos* wonders why concerning *Shabbos* the *Gemara* didn't also make this differentiation between where the hole is close to the wall and where it isn't. [4]

The *Riva* answers by saying there is a significant difference between the walls of a *Sukkah* and the walls / partitions necessary for domains on *Shabbos*. Specifically by the walls of a *Sukkah* there is a need for the hole to be within 3 *tefachim*, and this is generated by the *din* that the walls need to be close to the *schach*. We see this from how it teaches there³ that if the *schach* is a distance of 3 *tefachim* away from the walls such a *Sukkah* is *pasul*. This is learnt out⁴ from how the walls of a *Sukkah* are expounded from the *pasuk* of “*Basukkos, basukkos, basukkos*”. Therefore, the hole itself must also be close to the walls. By being in close proximity the walls themselves also become close enough to the *schach* above the hole. It is only through that closeness that the *Sukkah* is valid.

Additionally, *Tosafos* in *Sukkah* there⁵ elaborates more. He writes that there is no comparison from *Shabbos* where the domains are meant to prevent public entry and *Sukkah* where the walls actually need to be close to the *schach*. [5]

Alternatively, the *Tosafos Yeshanim* brings a different approach. He writes that when dealing with *Shabbos* there actually are external walls a height of 10 *tefachim*. The hole isn't necessary to complete the *shiur* of the walls themselves. Rather, since the internal space doesn't have a height of 10 *tefachim* that is why it doesn't have the *din* of a private domain. This is where the 4 by 4 hole comes in to create an airspace the height of 10 *tefachim* and convert the room into a private domain. On the other hand, by *Sukkah* the walls themselves aren't 10 *tefachim*. There the purpose of the hole is to complete the *shiur* for the walls. As such, it is necessary for the hole to be no greater distance than 3 *tefachim* in order for it to properly combine with the walls themselves.

Interestingly, the *Rosh*⁶ writes that specifically by *Sukkah* do we need the walls to be close to the *schach*. However, concerning *Shabbos* all we need is for the domain to be protected by the walls. Therefore, even if they are a great distance from the actual domain, it nevertheless can still be considered private. As such, it is through the external 10 *tefachim* walls that the area is called a private domain. It is not generated by the internal walls of the hole joining with them as the hole itself is at a distance greater than 3 *tefachim*.

Now, it is apparent from the words of the *Rosh* that he combines the answer of *Tosafos* together with that of the *Tosafos Yeshanim*. To him the reason the 4 by 4 hole helps even at a distance is because concerning *Shabbos* all we need is for the domain to be protected by the walls. However, this is of course providing that the external walls are 10 *tefachim* high. This is like what can be seen in the *Yad Efraim*⁷ that it is sufficient for the externally exposed walls to be 10 *tefachim*. Although on the inside their hollowed out space doesn't meet this *shiur*, nevertheless we go after the external side with its joining to the internal wall. It is sufficient that the inside space is protected by these walls which are 10 *tefachim* tall from outside.

Now, the *Magen Avraham*⁸ brings this *Rosh* and points out his words imply that if the external walls themselves aren't 10 *tefachim* then we would need for the hole to be within 3 *tefachim* of the walls. This practically means that although the walls make up 10 *tefachim* with the hole this isn't the only prerequisite if the external walls themselves aren't 10 *tefachim* tall. In such a case the hole would also need to be within 3 *tefachim* of the walls. This is similarly noted by the *Shulchan Aruch Harav*⁹.

However, the *Yad Efraim* is very troubled by this. From the words of *Tosafos* in *Shabbos* and *Sukkah*¹⁰ he implies not like this *Rosh*. *Tosafos* there answers by saying a *Sukkah* needs the walls to be close to the *schach*, something which isn't true by *Shabbos* where the purpose of the walls are to hold back the public. On the other hand, the *Tosafos Yeshanim* answers that a house without 10 *tefachim* is different because there the external walls actually have the *shiur*. The implication is that *Tosafos's* answer doesn't also require the point made by the *Tosafos Yeshanim*. His reasoning that

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that isn't a full 10 *tefachim* deep. In such a situation the depth of the hole combines with the walls of the house to turn itself into a private domain. That is what in turn converts the surrounding areas by classifying them as the holes of a private domain. On the other hand, this may not be true where the hole is actually 10 *tefachim* deep. There the hole itself constitutes a private domain without the help of the house's walls. Therefore, there would be reason to say its status shouldn't then spread to the surrounding areas. It doesn't stand to reason that a hole 10 *tefachim* deep would be able to pass on its status to distant walls considering them to be holes of a private domain. [However, he points out that the *Yesh Meforshim* cited by the *Rashba* clearly holds not like this.]

However, he does point out that from *Tosafos's* question (concerning why there is a difference here from *Sukkah* where the walls actually need to be within 3 *tefachim* of the hole) it would appear that he holds it truly is a private domain. If we don't say this then there would be no reason to ask from *Shabbos* on *Sukkah*. We would be able to say that there we need a *Sukkah* which is *kosher m'doraisa*, and that is why the walls need to be close to the hole. On the other hand, here all we want is to carry which is an *issur m'drabbanan*. As such, it would be easy to understand why the walls don't need to be in close proximity to the hole. Therefore, it is clear from this question that the whole discussion is concerning converting it into a private domain *m'doraisa*.

Understanding the difference between the *din* of walls for a *Sukkah* and walls to make a private domain for *Shabbos*

- ה' הדיטבנ"א -

If a 4 by 4 hole become a private domain *m'doraisa* to make one *chayiv* for *Hotza'ah* into a public domain

- דאש יוסף -

[4] We have mentioned in our *Gemara* that one can make a 4 by 4 hole in a house less than 10 *tefachim* and use it to combine for the *shiur* making it *muttar* to carry within. Regarding this, the *Rosh Yosef*³⁵ points out there is room to say the intention isn't to say it becomes a private domain *m'doraisa* to be *mechayev* one who is *motzi* from it into a public domain. In truth, we can say it isn't a private domain *min hatorah*, yet at the same time its 10 *tefachim* walls make it *muttar* for one carry there even *m'drabbanan*.

[5] Regarding this question the *Ritvah*³⁶ states “It is possible to say there we need the partitions of a *Sukkah* where the *Torah* was specific in requiring walls. On the other hand, here all that is necessary is for one to stand walled in by partitions, and that he should see himself as being within those partitions”.

We can see that his intention is to say there is a big difference between the *din* by *Sukkah* and that said concerning *Shabbos*. By *Sukkah* it is the wall itself that the *Torah*

the walls by *Shabbos* are meant to hold back the public doesn't also require the external wall to be 10 *tefachim*. This reason alone is sufficient for the hole not to need to be close to the wall.

To explain the *Rosh*, the *Sefer Zichron Shmuel*¹¹ writes it may be true he holds the walls of *Shabbos* are meant to withhold public entrance. On the other hand, it is also necessary for there to be a single wall 10 *tefachim* high. As such, if the hole is far from the wall this prerequisite isn't met. However, it is regarding this point that there is a major difference between the walls of *Shabbos* and *Sukkah*. By *Sukkah* as long as the hole is far from the walls it doesn't help even if the external walls themselves are 10 *tefachim* high. This is because the walls also need to be close to the *schach*, and the *kosher schach* is specifically that which is directly on top of the hole. On the other hand, by the walls of *Shabbos* all we want is for the public to be withheld. For this the walls don't actually need to be close to the hole. However, it is true that there needs to be a single wall. Therefore, if the external wall isn't 10 *tefachim* high its distance from the hole makes it considered that there isn't a single wall to create the private domain.

On the other hand, the *Rashba*¹² also brings *b'shem Tosafos* that by *Shabbos* the walls don't actually need to join with the hole. Their whole purpose is for the hole (private domain) to be protected from public entry, and for this they don't need to be close to each other. However, the *Rashba* adds something with tremendous ramifications. He writes that because the hole is 4 by 4, has the height of a private domain together with the walls, and is protected by the external walls, therefore it doesn't actually need to be close to the walls. It can even be positioned at a great distance. The *Ran*¹³ writes like this as well.

The *Beis Meir*¹⁴ points out that their words are clearly different from those of the *Rosh*. To them the very fact that the walls are only needed to keep out the public makes that as long as the hole has a height of 10 *tefachim* it is sufficiently classified as a private domain. This is true although the walls themselves only make up 10 *tefachim* through their combination with the depth of the hole, and applies in all situations. Additionally, the *Elyah Rabbah*¹⁵ comments on the words of the *Mogen Avraham*¹⁶ that from the *Ran* it is clear the external walls never need to be 10 *tefachim* on their own.

- ב -

Combining half a Wall with half a Hole

If it is possible to join the two even at a distance greater than 3 tefachim

- ד"ו, ביאור הלכה, שפת אמת -

[ב] We had mentioned the *Ran* who holds that even where the walls of a house don't make up 10 *tefachim*, their combination with the walls of a hole allow them to join together and be eligible for consideration as a private domain. Now, he actually goes on to prove this from how we *pasken* that a depth and wall of 5 *tefachim* can join together. On the same note, *Rebbi Yochanan paskens* later¹⁷ that a pit and its cavity can combine to make up 10 *tefachim*, and there is even a *b'raisa* like him.

This all stems from what is found in *Eiruvim*¹⁸ that *l'halacha* a 5 *tefach* depth and wall combine for 10 *tefachim*. *Rashi* there¹⁹ explains this to be referring to a *chatzeir* where the mound is 5 *tefachim* high and someone added to that height with a 5 *tefach* wall. Similarly, both the *Tur* and *Shulchan Aruch*²⁰ raise that a 5 *tefach* mound can have its *shiur* completed through building a 5 *tefach* wall. This then serves to make the mound eligible for carrying and all other matters. It is from all this that it becomes clear it would also be permissible to combine the 5 *tefachim* from a hole with the 5 *tefachim* of a house's wall. This joining then makes the space into a private domain, and it isn't necessary for the actual walls of the house to be 10 *tefachim* high.

We just mentioned the *Shulchan Aruch* as saying that a five *tefach* mound can have its *shiur* completed through building an additional 5 *tefach* wall. This then makes it valid for carrying and all other matters. Concerning this *psak*, the *Biur Halacha*²¹ raises a *safek* regarding what the *din* would be if the new wall were to be constructed at a distance of 3 or 4 (or more) *tefachim* from the edge of the mound. His question is whether or not we can still join the two together to create a complete wall. He reasons to say this is the subject of disagreement between the *Tehillah L'Dovid* and the *Gra*²².

However, from the words of the *Ran* it is clear he would say there is no need for the mound and upper wall to be within 3 *tefachim* of each other. We know he holds that where a 4 by 4 hole is made it doesn't also have to be close to the actual walls of the house itself. He says this even where the walls of the house aren't 10 *tefachim* from their own height, and proves his opinion through what is said that a depth and wall can join together. Therefore, it is clear from his words that they can combine even when at a distance from each other.

Indeed, the *Sfas Emes*²³ also raises that the *ikar* is like the *Ran* who holds regarding *Hilchos Shabbos* one can join a half wall of a house together with a half wall of a hole even where the two are far from each other. He asserts that this is clear from how a 5 *tefach* wall and 5 *tefach* depth are able to combine, and the *Gemara* bringing this *psak* makes no mention of a need for the two to be within 3 *tefachim* of each other.

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requires. That is what makes the *Sukkah* usable. However, this is not true concerning the walls needed to make an area a private domain for *Shabbos*. There it isn't the wall itself that is the pressing need. Instead, the intention is for the area to be enclosed. Therefore,

it is specifically by the walls of *Shabbos* that it is okay even where the hole isn't close to them. At the end of the day it is still completely enclosed. However, by *Sukkah* it is the wall itself that is needed. As such, the wall need to literally be next to the hole.

Not only that, he even writes this for the words of the *Rosh* as well. He asserts that his intention never was to combine the answers of *Tosafos* and the *Tosafos Yeshanim* requiring the walls of a house to be 10 *tefachim* high (like how the *Magen Avraham* explained the *Rosh's* words). On the contrary, the *Rosh's* true intention was to say regarding making a private domain on *Shabbos* that it isn't necessary to physically join the walls of the

hole to the walls of the house. Rather, it is enough for there to be a 10 *tefach* separation between the public domain and the floor of the hole made up of an external wall and the internal parts of the house. He even adds it doesn't make any sense to say the *Rosh* was insinuating that we need to physically join the upper *tefach* of the external wall to make up the 10 *tefachim* within the house.

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A Mavoi less than 10 Tefachim that one dug into until achieving the Shiur of 10

If one dug 10 tefachim in a Mavoi, but at a distance of 3 tefachim from the central wall

- בית מאוי, אבן העזר -

[א] As we have seen from our *Gemara* it is possible to make a 4 by 4 hole in a house with the purpose of using its depth to complete the 10 *tefach shiur*. At the same time it is unnecessary for this hole to actually be close to the wall. We find something similar to this in *Eiruvim*²⁴ where the *Gemara* raises that if a *Mavoi* is less than 10 *tefachim* high one can then dig a hole to complete the *shiur*. *Abaye* there asserts that it is necessary to dig the hole for 4 *amos* along the length of the *Mavoi*. Only then is one allowed to make the *Mavoi* usable through setting up a beam. This *din* is brought *l'halacha* in the *Shulchan Aruch*²⁵.

The *Beis Meir*²⁶ writes it is clear from this that the hole doesn't also have to be dug within close proximity to the central third wall of the *Mavoi*. It is sufficient for it to be dug for a span of 4 *amos* in the entrance to the *Mavoi*. Although this is at a great distance from the middle wall, nevertheless the *Mavoi* then becomes usable for *Shabbos* through the erection of a beam. Now, the *heteir* through setting up a beam at the entrance is specifically where it has the *din* of a private domain *m'doraisa*. Therefore, it is comes out from here that a *Mavoi* can be considered a private domain even where the hole is far away from the wall.

However, the *Beis Meir* is troubled by the *Rosh's shita* because of this *din*. As we have seen, the *Rosh* holds that if the external walls don't make up 10 *tefachim* on their own, it is then necessary for the hole to be within 3 *tefachim* to combine for the *shiur*. According to him it should then come that it doesn't help when the hole in a *Mavoi* is positioned adjacent to the entrance. Since the third wall itself isn't a height of 10 *tefachim* it should come out that the *Mavoi* isn't a private domain *m'doraisa*. Its distance from the hole should be a barrier to achieve this status.

Rather, we are forced to say that because the walls of *Shabbos* are merely meant to prevent public entry in truth it makes no

difference even where only one of them has the *shiur* of 10 *tefachim*. As long as the hole serves to enclose the area and make up a wall of 10 *tefachim* that is sufficient for the area to then be considered a private domain. The fact that the wall is completed only through the hole is not an issue. Once the hole has the *din* of a private domain its status then spreads to everything else. The surrounding area becomes classified as holes of a private domain which are given identical status. We see this clearly from how our *sugya* asserts that the 10 *tefach* hole dug in a house can spread its status to the surrounding area through the *din* of holes in a private domain.

However, the *Even Ha'Ozer*²⁷ is also bothered by this question of why it helps for the hole to be in the beginning of the *Mavoi* when the middle wall doesn't have the full *shiur*. It then comes out that the back end of the *Mavoi* should have the *din* of an area with a breach leading into a public domain or *karmelis*. Therefore, the area distant from the hole would definitely be *assur*. Not only that, even the hole itself should also become *assur* as it is open to this area of *issur*.

To answer, he writes we are forced to explain the *Gemara* and *Shulchan Aruch* by saying they were referring to a *Mavoi* less than 10 *tefachim* from within. In truth, the external wall facing the public domain or *karmelis* must have actually had the complete *shiur*. They were merely discussing where the floor inside the *Mavoi* was raised higher than that found outside. It was because of this that the inner walls didn't have the complete *shiur*. That is why such a *Mavoi* couldn't be made usable through a *lechi* or beam.

He explains this by asserting that *Chazal* only were *mattir* a *Mavoi* through a *lechi* or beam where from the inside there are 3 noticeable 10 *tefach* walls. It is there that the *lechi* or beam combine to make up the fourth wall. However, where the first 3 walls aren't noticeable, in such a situation this whole process fails to work. Therefore, in our case although the external walls actually have a height of 10 *tefachim*, nevertheless the fact that the inner floor is raised creates a need for a hole to be made. That hole then causes for the inner walls to be noticeable as having a height of 10 *tefachim* as well.

מראי מקומות

(1) (ד"ה ואם). (2) דף ד"ו. (3) דף י"ז. (4) (שם דף ו'). (5) (סד"ה פחות). (6) ס' י"א. (7) בשו"ע אור"ח ס' שמ"ה. (8) ס' שמ"ה סק"ג. (9) שם סעיף כ"ב. (10) הנ"ל. (11) (להגר"ש רוזנבסקי ז"ל) ס' כ"ו (אות ב'). (12) בסוגיין. (13) שם (דף ב': מדפי הרי"ף). (14) ס' שמ"ה סעיף ט"ו. (15) שם סק"ב. (16) הנ"ל. (17) דף צ"ט. (18) דף צ"ג. (19) (ד"ה גידוד). (20) ס' שס"ב סעיף ב'. (21) (ד"ה שנעשה). (22) בס' שני"ח סעיף ב'. (23) בסוגיין. (24) דף ה'. (25) אור"ח ס' שס"ג סעיף כ"ו. (26) אור"ח ס' שמ"ה. (27) ס' שס"ג שם. (28) (דף ב': מדפי הרי"ף). (29) ס' שמ"ה. (30) סקס"ה. (31) ס' שמ"ה סעיף ט"ו. (32) ס' שס"ב סעיף ב'. (33) ס' שמ"ה סעיף ט"ו (ד"ה תוכו). (34) אור"ח ס' ס"ה סקס"ז. (35) בסוגיין. (36) בסוגיין.