

Zoning Board of Appeals
Date: March 8, 2024 - 11:00 a.m.
LTV Studios
75 Industrial Road, Wainscott, NY 11975

Those Present Were:

John L. McGuirk, Chair
James H. McMullan, Vice-Chair
Philip O'Connell, Member
Joseph B. Rose, Member
Andrew Baris, Member
Abigail FitzSimons, Alternate
Tim Hill, Village Attorney
Bill Hajek, Village Planner
Tom Preiato, Village Building Inspector
Gabrielle McKay, Village Deputy Clerk
Jacqueline Morley, Attorney on Behalf of Jane Z. Forman and Edward N. Wolff
Jonathan Tarbet, Attorney on behalf of Lloyd Macklowe 2022 Trust and Barbara Macklowe
2022 Trust
Brian Mannix, Agent on behalf of Susan P. Furlaud
Matt Pachman, Attorney on behalf of Irene Tserkovny and Alex Gorbansky
Irene Tserkovny, Property owner of 44 Dayton Lane
Martha Reichert, Attorney on behalf of Huntting Hospitality LLC
Joan Denny, Property owner of 24 Huntting Lane
Ken Lustbader, Property owner of 68 Mill Hill Lane

John L. McGuirk: Good morning, and welcome to the Village of East Hampton Zoning Board of Appeals meeting for Friday, March 8th. Again, we'd like to thank LTV Studios for hosting us.

MINUTES

John L. McGuirk: We have the minutes from February 9th, 2024. May I have a motion?

James H. McMullan: Motion.

John L. McGuirk: Second?

Abigail FitzSimons: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

DECISION ITEM

64 WE Acquisition, LLC – 64 West End Road – SCTM# 301-15-5-3

John L. McGuirk: We have two determinations today. I will, uh, I'll read one, and Jim McMullan will read the second one. Decision item for this board's February 9th, 2024, agenda concerning

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64 West WE Acquisition, LLC, 64 West End Road, Suffolk County Tax Map number 301-15-5-3 is resolved by supplemental determination, which supplemental determination is hereby approved as written in compliance with any satisfaction of the limited remand directive of the Supreme Court, Index Number 006388-2019. May I have a motion?

James H. McMullan: Motion.

John L. McGuirk: Second?

Joseph B. Rose: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

James H. McMullan: Gabby has to poll.

John L. McGuirk: Oh. Gabby, you gotta pull the board. Sorry.

Gabrielle McKay: It's okay, Mr. McGuirk?

John L. McGuirk: Yes.

Gabrielle McKay: Mr. McMullan?

James H. McMullan: Yes.

Gabrielle McKay: Mr. O'Connell?

Philip O'Connell: Yes.

Gabrielle McKay: Mr. Rose?

Joseph B. Rose: Yes.

Gabrielle McKay: Mr. Baris?

Andrew Baris: Yes.

DECISION ITEM

Christopher Jaeger and Phoebe Simmer – 9 Route 114 – SCTM# 301-2-3-10

James H. McMullan: In the application of Christopher Jaeger and Phoebe Simmer, 9 Route 114, Suffolk County Tax Map Number 301-2-3-10, for variances to reconstruct an existing garage and convert the building into a pool house with storage is denied. May I have a motion?

Joseph B. Rose: So moved.

James H. McMullan: Second?

Abigail FitzSimons: Second.

James H. McMullan: Gabby, can you please pull the board?

Gabrielle McKay: Mr. McMullan?

James H. McMullan: Yes.

Gabrielle McKay: Mr. O'Connell?

Philip O'Connell: Yes.

Gabrielle McKay: Mr. Rose?

Joseph B. Rose: Yes.

Gabrielle McKay: Mr. Baris?

Andrew Baris: Yes.

Gabrielle McKay: Ms. FitzSimons?

Abigail FitzSimons: Yes.

ADJOURNMENTS25 Cross Highway LLC – 25 Privet Lane – SCTM# 301-13-4-17

John L. McGuirk: We have one adjournment today for April 12th, 2024 - 25 Cross Highway LLC, 25 Privet Lane.

ORIGINAL HEARINGLloyd Macklowe 2022 Trust and Barbara Macklowe 2022 Trust – 6 Borden Lane – SCTM# 301-8-15-3

John L. McGuirk: We have two hearings today. And Gabby, will you please?

Gabrielle McKay: Yes. Application of Lloyd Macklowe 2022 Trust. Barbara...

Bill Hajek: I don't think the agent representing the applicant is here. Would you want to skip?

Gabrielle McKay: Okay, so I'll go on to Acacia Green.

Philip O'Connell: Same attorney.

Bill Hajek: Yeah.

Gabrielle McKay: Oh.

John L. McGuirk: Well, the meeting started 11, so, um.

Bill Hajek: I'd just maybe come back to it.

John L. McGuirk: Okay. But he's on. He's the next. He's the extension of time request as well. So, uh, we can go into the continued hearings. So, we'll do the first continued hearing.

CONTINUED HEARINGJane Z. Forman and Edward N. Wolff – 122 Georgica Close Road – SCTM# 301-7-4-16

John L. McGuirk: Is anybody here for Jane Z. Forman and Edward N. Wolff? Hi. How are you?

Jacqueline Morley: How's it going?

John L. McGuirk: Good. Thank you.

Jacqueline Morley: Jackie Morley from Twomey, Latham, Shea, Kelley, Dubin, Quartararo, Riverhead and East Hampton here on behalf of the applicant, um, Jane Forman and Ed Wolff. We previously appeared before you on January 12th, and at that hearing, there was some additional questions that we endeavored to answer. We submitted an additional packet for you at the end of last month. I can walk you through that a little bit, just so actually, I'll jump to the

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last item that we submitted, and I realize that maybe it wasn't that clear from the picture that was provided, but this is exhibit four and it just shows the receipt that our client received for when the shower was installed. And you can see on there, it does have a flow well, in gravel, under floor area for drainage. I believe that was a question from the previous hearing about how it was installed and what was, um, if it needed to have anything additional done to it. And then moving back to the front, what we... The other issue that had been raised at the previous hearing was if we could find a different location for the trampoline, which is in setbacks and the primary concern was the wetland setbacks. So, what we endeavored to do was to show you, because it may not have been clear from the survey, um, and this is in exhibit one and then throughout the rest, um, that, you know, our clients have substantially improved and planted really everywhere that's sitting beyond the 150-foot setback, especially around the pool and you can see they have the cutting garden and a number of other improvements. And, you know, the location of the trampoline now is a more ideal location for them with the safety of their children. They wouldn't want it necessarily so close to the pool or anything like that. Um, and additionally, we provided you with pictures of what appears to be a garter snake den that now resides underneath the trampoline. Um, just for additional consideration, because I guess they've been there for a couple of summers now. And hopefully the pictures didn't bother anybody, but um, I know they're kind of right on the front page there. And from my understanding, I believe garter snakes do kind of come from all over to one shared den. So, it seems like there's kind of quite a collection that's formed underneath the trampoline. And that was what we tried, you know, what we had done in response to the previous questions. I do believe that the previous hearing, there was maybe a question of if we were applying for plantings, but the plantings that we were applying to legalize are already planted. So that's what I think maybe there might have been referred to as a planting plan, but it was an existing planting plan, essentially. And if there are any questions. Thank you.

John L. McGuirk: Okay, thank you. Uh, Board members?

James H. McMullan: My question to you is, I know you're saying that the majority of the property of, I guess, um, outside the 150-foot wetland setback, is there any way that that trampoline could be moved more kind of towards the setback?

Jacqueline Morley: Oh, even just like closer to the to the pool even?

James H. McMullan: Yeah. I mean, there's, there's yard on the other side of the tree there, kind of in that line over towards that corner.

Jacqueline Morley: Is it okay if I approach you or can I...

James H. McMullan: Sure.

Jacqueline Morley: Um, so, here you mean. (Pointing at area that Mr. McMullan was referring to on the planting plan received February 23, 2024).

James H. McMullan: Yeah, exactly.

Jacqueline Morley: Okay.

James H. McMullan: At least it's further from the wetlands and everything.

John L. McGuirk: I'm okay with that.

Joseph B. Rose: This isn't really a question. I just think it's a case of having planting in the area that would be conforming and then having built a structure in a place that's not conforming because there are plantings close, doesn't seem to me to be a legitimate grounds for a variance request. The trampoline can be moved, or it can be a portable trampoline that can be placed. It doesn't. There's, uh, the rationale for a built-in trampoline structure in the setback area - I don't see a compelling argument on its behalf.

John L. McGuirk: Anyone else? So I think we'd like to see the trampoline removed.

Jacqueline Morley: Okay. Understood. Um, I'll let them know that. Presumably, then we'll be closed for a decision then at that point, or do you want us to submit something additional or?

John L. McGuirk: I think we can close it.

Jacqueline Morley: Okay.

John L. McGuirk: All right. So, thank you very much.

Jacqueline Morley: Thank you.

John L. McGuirk: Um, motion to close the hearing?

Joseph B. Rose: So moved.

John L. McGuirk: Second?

James H. McMullan: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Okay.

Jacqueline Morley: Thank you for your time.

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ORIGINAL HEARING

Lloyd Macklowe 2022 Trust and Barbara Macklowe 2022 Trust – 6 Borden Lane – SCTM# 301-8-15-3

John L. McGuirk: Jonathan. Um. Good thing Joan wasn't running this meeting, Mrs. Denny.

Jonathan Tarbet: I do apologize.

Gabrielle McKay: John.

John L. McGuirk: Yes.

Gabrielle McKay: I'll just read the Hearing Notice.

John L. McGuirk: Yes, please.

Gabrielle McKay: Application of Lloyd Macklowe, 2022 Trust, Barbara Macklowe, 2022 Trust Suffolk County Tax Map Number 301-8-15- 3 for an Area Variance from Chapter 278, Zoning, to install a shed containing pool equipment within a required side yard setback. The 17-foot variance is required from Section 278-3.A (5)(C) to construct a shed containing swimming pool equipment 13-feet from a side yard lot line, where the required side yard setback is 30-feet. The legally preexisting pool equipment is located 11.1-feet from the side yard lot line. The subject property is 30,000 square feet in area and is located at 6 Borden Lane in Resident District R-40. This project is classified as a Type II Action in accordance with SEQR.

John L. McGuirk: Thank you and good morning. And just for the record, the neighbor to the west sent a letter in on this in support.

Jonathan Tarbet: Good morning. Hi again. Sorry I'm late. Jon Tarbet, representing the applicant, Amanda Atlas. She's here right now with me if there's any questions for her. She did buy this property and is looking to relocate her pool equipment into a slightly more conforming location. Borden Lane has been developed for 20 or 30 years, and it was originally laid out when setbacks for pool equipment were 10-feet. So, all the properties are, actually a lot of the properties, are similarly situated where there's pre-existing non-conforming pool equipment within the side yard setback, as is hers. She does want to move it into a more conforming location. She did reach out to her neighbor to make sure the neighbor would have no issue with that. And the neighbor did later write a letter in support of the application. So, we're here today asking for that variance.

John L. McGuirk: Thank you. Any Board members have any objections on this?

James H. McMullan: No. I think moving the thing into a more conforming location and the neighbor doesn't have a problem. I don't have a problem.

John L. McGuirk: Okay. Thank you.

Andrew Baris: I appreciate the letter from the neighbor. So that...

John L. McGuirk: Helps.

Andrew Baris: Yeah.

John L. McGuirk: A motion to close the hearing?

Joseph B. Rose: So moved.

John L. McGuirk: Second?

James H. McMullan: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Okay. Moving on to the next.

ORIGINAL HEARING & EXTENSION OF TIME REQUEST
Acacia Green LLC – 8 Marina Lane – SCTM# 301-8-10-45

Gabrielle McKay: Application of Acacia Green LLC, Suffolk County Tax Map Number 301-8-10-45, has requested to modify a prior Zoning Board of Appeals Determination, which granted an Area Variance from Chapter 278, Zoning, to construct a tennis court 20-feet from the side yard lot line, where the required setback is 40-feet. The subject property is 69,832 square feet in area and is located at 8 Marina Lane in Resident District R-80. This project is classified as a Type Two Action in accordance with SEQRA.

Jonathan Tarbet: So, Jon Tarbet for the applicant, again. This is actually a dual request. There's also an Extension of Time. Should I address them both?

John L. McGuirk: I would address them both at once.

Jonathan Tarbet: Okay. I'll start with the easy one, somewhat. I don't know if it's done on all your applications, but this particular decision had a one-year permit expiration on it. The house is currently under construction. The tennis court is not under construction yet, for reasons why we're here today, we had a question first. We are here asking for an extension of the permit that you granted last year. Another year would be fine if that's okay with the board.

John L. McGuirk: Can I just refer to Tom? I mean, obviously we've done this before.

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Jonathan Tarbet: Yeah. Um, thank you.

Tom Preiato: Mr. Chairman, members of the Board, Tom Preiato for the Village. I don't have a particular objection to this. They already have a setback variance for the pool to, and excuse me, tennis court. And I think right now we have it at 20-feet and there would be no... You know, the code hasn't changed. I wouldn't have an objection.

John L. McGuirk: Okay, so do we give them an extension of time of another year? Is that what we normally do?

Tom Preiato: I believe that's okay, yeah. I think going forward, I think we might look at having, you know, more of a procedure, an actual letter or something that we can track these a little better and a little more official. In this case, like I said, I have no objection for the tennis court to remain with the reduced setback.

John L. McGuirk: Thanks, Tom. So, Board Members, nobody has a problem with that? Okay.

Jonathan Tarbet: Okay, so the second part of the request is that when we originally were here, the Board had concerns that this particular application, because we came in just for the tennis court variance, we had no plans for a house at the time. The Board was concerned, rightly, that we would bifurcate the application and say, hey, that was really nice you to give us a tennis court variance, but now we need variances for the house and this and this because of where the tennis courts proposed. So, what we talked about at the time was that we would agree that we would, for so long as we benefit from the tennis court variance, we would never come back and ask for additional variances from you. That house is now under construction. So, to some degree, some of your concerns regarding them bifurcating and asking for additional variances to the house are probably alleviated to some degree. But that's what... We still agree that we should never ask for any... The point of never asking for any additional relief, besides what we got, is still agreed to. The question is, the way that the decision itself was written, it said that you would have to remove the tennis court before you ask for any additional relief, so you could run into a situation where you set, uh, you in the future, 10 or 15 years from now, somebody could consider the need for relief, would have to remove their tennis court, then apply to the Zoning Board. The Board could say no, and they would have lost both the tennis court and not gotten the future relief. So, the request is, is that, uh, the decision be amended to say that they have to come to the Zoning Board and would have to remove the tennis court if they got any further relief. The difference being that if you say no, then they get to keep the tennis court, and if you say yes, then they'd have to remove the tennis court in the future. I'm not sure if I explained that well or not, but that's... if I didn't. I'll try to explain it again.

Philip O'Connell: Well, I thought the language as, as written is what was bargained for.

John L. McGuirk: Me too. I thought that also.

Philip O'Connell: And I think if they want to come and ask for a variance for the house or something else on the property, that's the risk they run. And it was purposeful.

Joseph B. Rose: And at the time, if there's ... if there's a future application, the application to amend the language can be done in conjunction with any future application.

Philip O'Connell: No, they can't, apply.

Joseph B. Rose: They can't apply without...

Philip O'Connell: They've waived that. They've covenanted to waive that right by us giving them that uh, granting the variance for the tennis court. I just see... I thought that's what was bargained for at the time.

John L. McGuirk: I thought we bargained for that also.

Jonathan Tarbet: If somebody else didn't remember, and I just figured I'd ask and obviously, whatever you guys think is right.

Joseph B. Rose: Presumably, there's no intention to ask for a variance at this point in any ... in any event, right?

Jonathan Tarbet: There's no intention to ask for any more variances. Um, the owner read the decision recently before my letter and said, oh, that...and he just raised...it's a logical...it may have been what he bargained for, and that's fine, but it was a logical thought on his part, which was, wow, that's, you know, at some point in the future there could be some minor issue that comes up. And I'd have to remove my tennis court to ask for that variance. But it's fine. If that was the bargain he made.

Joseph B. Rose: The deal with the, uh, I recall the deal was the deal at the time he explicitly said.

John L. McGuirk: Yes.

Abigail FitzSimons: I wasn't sitting on the board at the time, but it doesn't seem to me...It doesn't seem quite logical. I mean, I think to have to come to remove your court just to come up and ask for relief seems, I had said, draconian. It seems a little...

John L. McGuirk: Okay. So why don't we, Tim? Why don't we? Maybe. Abigail, you can reach out to Tim and one of us and you and Lisa and just talk about this to get some counsel.

Tim Hill: Sure, and just to preview that, I mean it in some sense it's a question of ripeness. Um, you know, in theory, you could make that request at the time that you would possibly be making...

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Joseph B. Rose: That's the point.

Jonathan Tarbet: The difference, what you were saying is, I could come back and make this exact same request in the future and say...And that's what I thought

Joseph B. Rose: Here's the thought, right, and that's the point. If there was something, if there was some compelling reason for some minor thing, the appropriate time to make that request is at that time, as opposed to...

Philip O'Connell: Oh, now I understand. Got it. I understand what you're saying now.

Jonathan Tarbet: Yeah, that's not unfair, I get it. Okay. Thank you. Okay.

John L. McGuirk: So, motion to close the hearing?

Joseph B. Rose: So moved.

John L. McGuirk: Second?

James H. McMullan: Second.

Jonathan Tarbet: Thank you.

John L. McGuirk: All in favor?

Board in Unison: Aye.

CONTINUED HEARING

Susan P. Furlaud – 79 Hither Lane – SCTM# 301-5-1-2

John L. McGuirk: Okay. Um. We're on to Susan P. Furlaud.

Brian Mannix: Morning, everyone.

John L. McGuirk: And Gabby has to swear you in.

Gabrielle McKay: Please state or...Please raise your right hand and state your name and address. For the record.

Brian Mannix: Brian Mannix, 50 Fresh Pond Road, Amagansett.

Gabrielle McKay: Thank you. Do you swear to tell the truth, the whole truth and nothing but the truth?

Brian Mannix: Yes.

John L. McGuirk: Morning, Brian.

Brian Mannix: Morning. So, Brian Mannix, representing, Ms. Furlaud. Following up regarding the requested variance for the generator.

John L. McGuirk: Yeah. And you did show...I think...we did get a planting plan a while back.

Brian Mannix: A while back, yes.

John L. McGuirk: Did you move the generator a little bit further back?

Brian Mannix: Uh, we did actually after we located the meter and the plantings, we did adjust it and actually moved it even further back, yes.

John L. McGuirk: Okay. Anybody have any issues?

Joseph B. Rose: I reiterate my general concern about the location of generators in the front yard. I don't think, in this particular case, I don't think it's deeply problematic. Uh, I am concerned about precedential aspects, but I don't see an issue in this particular location. And given the situation.

John L. McGuirk: Okay. So, anybody else? Thank you, Mr. Rose. Uh, motion to close the hearing.

James H. McMullan: So moved.

John L. McGuirk: Second?

Joseph B. Rose: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

CONTINUED HEARING

Irene Tserkovny and Alex Gorbansky – 44 Dayton Lane – SCTM# 301-2-7-17

John L. McGuirk: Great. Okay, we're on to, uh, 44 Dayton Lane. I'm going to let Phil...

James H. McMullan: I'll recuse myself.

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Matt Pachman: Phil will Chair this, he Chaired before. And I will...and I did read the, uh, minutes, and I did watch the meeting. So, I will be sitting on this application.

Philip O'Connell: Okay. Matt, you want to just state your name for the record.

Matt Pachman: Sure. Good morning, members of the Board. Matt Pachman, Ackerman Partners, here for the applicant. We do have the project architects here in addition to the applicant. Members of the Board, you will remember that this application came before you last month. There was a neighbor to the East who had some current concerns about the application. Uh, we adjourned the matter until today so that we could have an opportunity to speak with that neighbor. I am pleased to say we had very good and substantive conversations with her. We revised the plans based upon those conversations and those plans were submitted under the letter dated March 4th. And the neighbor, Ms. Ostrow, sent a letter in support, which the Board now has. Uh, given that, we hope that all of the concerns have been addressed. If the Members have any questions, we have, as I said, the project architects and the applicant here. Otherwise, we would respectfully request that the matter be closed and approved.

Philip O'Connell: Any Board members have any questions or comments?

John L. McGuirk: I don't.

Joseph B. Rose: I have...I think it's improved. The application has improved. I do have a question regarding the attic space in terms of the impact of this application is to increase the usage on the second floor in terms of the bathrooms and the...as well. So that's hence the argument. And the other impact of this application as a whole is the volume increase and the visual presentation of a of a third floor, but which is, as I understand, it is not meant to be habitable space of any kind.

Matt Pachman: That's correct.

Joseph B. Rose: It's attic space and mechanical?

Matt Pachman: That's correct.

Joseph B. Rose: And as I would refer to the building, how do we assure, given there's a staircase, there are proposed dormers and the like, how do we, uh, how can we assure that this space continues to quack and float like an attic space as opposed to...

Tom Priato: Thank you again, Tom, for the Village. Um, our Code is somewhat silent as far as staircases and the ability to access a space such as this, that could be potentially a third floor. It's very specific to regulate the use of the area. Um, so it's a difficult thing to, I'll say patrol. You know, obviously there's the option of a voluntary covenant that would be up to the Board on, um, future use perhaps.

Joseph B. Rose: I'm not sure. Mr. Chair or Acting Chairman Phil. Okay, I would, I would suggest that a covenant to that effect pursue that meets the standards of the Building Department in terms of assurance, that's something most.

Matt Pachman: Respectfully, I understand your thoughts. I would respectfully suggest that the Board is not supposed to presume that there will be a future violation. I would respectfully suggest that such a covenant would be, in my experience, unusual, given that there would be a covenant on every application. That's something that is not in violation now, wouldn't be in violation in the future. There are remedies. The Building Department can enforce that. So, I do understand your concern. I don't mean to be belittling them in any way. I respectfully suggest to the Board that that would be something that would be, uh, out of the ordinary, and we would respectfully request that that not be added. But I do understand your concern.

Joseph B. Rose: So let me just make the point. I wasn't presuming what the use would be or not. There are elements of the application of the proposed structure that involve a staircase, dormers, you know, things that are out of the ordinary in terms of what one would ordinarily have for an attic space. So, the quest so in terms of being able to move forward with the application, that's what's the alternative way of doing it would be making structural changes involving the dormers or the staircase. So, the alternative is a covenant mechanism that would obviate the need for going into those kinds of issues. So that's the, that's the point I would suggest.

Philip O'Connell: And quite frankly, I don't see what the issue is if this is the representation that's being made.

Irene Tserkovny: Inaudible (speaking from audience).

Philip O'Connell: Step up to the to the mic. Gabby just has to swear you in.

Gabrielle McKay: Um, please raise your right hand and state your name and address for the record.

Joseph B. Rose: Irene Tserkovny, 44 Dayton Lane.

Gabrielle McKay: Thank you. Do you swear to tell the truth, the whole truth and nothing but the truth?

Irene Tserkovny: I do.

Gabrielle McKay: Thank you.

Irene Tserkovny: Um, so, I mean, the dormers in my understanding of working with the architect were purely visual for like the beautification of the house. We can do without dormers, but I think from, like an...from the street, visually, it creates like a classic Hamptons

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look, which is...we wanted to do something that's better than what we have today, which is, you know, a blue bolted on monstrosity. Um, and then the second portion, the staircase. I have four children, two of them are five-year-olds. It is a storage space for us because our basement, we don't have a basement. Um, there'll be toys. There'll be just, you know, kid stuff. And so to have the pull down staircase for me was dangerous for the children. So I asked for a proper staircase that they can run up and down and grab their stuff. So that's...that's the only consideration.

Joseph B. Rose: I don't disagree with those points. Leave it to... We are not the Architectural Review Board. So, it's not about the aesthetic, but that's...but precisely because of the desire for a staircase as opposed to a pull down and the introduction of dormers, hence the, the rationale. So that's, that's why if the covenant were done to make it clear that it's never...it's not habitable, it's not a...

Philip O'Connell: Storage space. Because that's what you're referring to.

Joseph B. Rose: A mechanical space.

Philip O'Connell: It doesn't seem like your client has an issue.

Matt Pachman: The point is, the Board's discretion that they're going to hopefully grant the application with that covenant, that would be acceptable. Thank you.

Joseph B. Rose: Okay. Thank you.

Philip O'Connell: Um, so you want to work on...you want to submit the covenant language with Tim Hill? Tim. Is that...

Tim Hill: Sure, yeah.

Philip O'Connell: So, would they submit a covenant, or would we just put it in the...They submit the covenant, right?

Joseph B. Rose: And the covenant is part of the consideration when we...yeah.

Matt Pachman: The only thing I would respectfully ask that if the Board could, in its discretion, grant the application and not hold up the grant until we submit the covenant. The point being that once a covenant is submitted, uh, and then it's acceptable to the Village Attorney, then maybe we can have a building permit so that the reconstruction of the house, which, as you know, because of the water damage, uh, is not habitable. We'd like to move ahead with that.

Joseph B. Rose: This shouldn't take. I don't see why this should take any more time. We're going to have to schedule this for a vote next time. So we should.

Philip O'Connell: Yeah.

Joseph B. Rose: It should be. You should be able to do this within the time frame without holding.

Philip O'Connell: Yeah, if you get the covenant over there and they can approve it and then we can address it all at the next, next meeting. Sound good?

Matt Pachman: Thank you very much.

Philip O'Connell: Thank you. All right. I'm handing the meeting back over to you, Mr. Chairman.

Gabrielle McKay: I'm just going to get Jim. He's in the hall.

Joseph B. Rose: You have to close the hearing on this. Oh, wait. Phil, we have to close the hearing. Thank you. Abigail made a point. We didn't close the hearing.

Philip O'Connell: Um, a motion to close the hearing.

Joseph B. Rose: So moved.

John L. McGuirk: Second.

James H. McMullan: All in favor?

Board in Unison: Aye.

CONTINUED HEARING

Hunting Hospitality LLC – 94 Main Street – SCTM# 301-3-8-1

John L. McGuirk: Okay, moving on to the Continued Hearing for 94 Main Street, the Hunting Inn. Good morning.

Martha Reichert: Good morning, everyone. Martha Reichert, Twomey, Latham, Shea, Kelley, Dubin, Quartararo, 33 West Second Street, Riverhead, New York. For the applicant, Hunting Hospitality LLC. Um, it's good to see everyone here again. We submitted some revised plans back in late January, which took into account several different comments that were made at the prior hearings. We also looked at all of the neighbor, um, correspondence and the issues that they raised and looked at and examined them and submitted these revised plans, which I'll just sort of briefly summarize some of the things that were...are different and some of the things that are the same. So, what remains the same is that we are still proposing the three-story addition to the rear of the historic structure to provide an elevator, um, that goes, that permits people to access the first, the second and the third floors. The second and third floors are where the inn has its rooms. There's currently no accessible way to get into the building or

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to the upper stories that doesn't involve stairs, right? Those are barriers to entry and accessibility. So pursuant to the ADA, this is a main objective to bring this building into compliance. Um, we are still proposing an in-ground swimming pool, but, uh, in the interim since we last saw you, we retained an engineer that specifically designs commercial swimming pools and redesigned it to ensure compliance with all of the New York State Regulations for a commercial swimming pool, um, which requires a five-foot impervious deck around the pool itself. And in doing so, we changed the shape of the pool and the design of the spa. It's now a 10 by 20 pool. It has an eight by ten spa adjacent to it. Um, the pool is actually now set five feet further back than it originally was proposed, but the patio does come all the way to the 50-foot transitional yard set line. Um, but it doesn't require any setback relief here. And so, the idea with the redesigned pool is it now conforms with all of New York State's requirements. Um, and we're still able to maintain what was previously covenanted to the Board, which is that we will have an auto cover, uh...

John L. McGuirk: For the pool and the spa?

Martha Reichert: For the pool in the spa, exactly. Um, and so now it has a square shape that makes that just logistically feasible. Um, we have previously covenanted that, you know, the hours of operation will be until sunset during, you know, summer season, uh, there will be no amplified music, right. All of those things that we had previously represented that we will covenant, we will continue to covenant. There will be no illumination of the pool and it will be covered at night. Um, we redesigned the ADA pathway and ramp. The last time you saw it, it kind of went through the pool patio area, but since that pool patio will be cut off or it will be closed, right, uh, in the evening, we needed to really make sure that the ADA path of travel was someplace that could be accessible night and day for the for the inn's guests. Um, and so you see that sort of redesigned pathway leading up to the covered patio, which then brings someone into the building where the elevator is right there. And in response to our last hearing, we have redesigned, um, and been able to add without making the addition any bigger, uh, an ADA unisex bathroom, which also brings the restaurant into ADA compliance as well. So, there is an ADA accessible bathroom now. And as we've discussed previously, there will be an ADA compliant hotel suite on the second floor and possibly a second one on the third, but definitely on the second floor right as you come off the elevator. So, it's in the most convenient place for accessibility, but also logistically where it makes the most sense. Because if you've ever been inside the inn's second and third floors, there are a lot of 90 degree turns and they're difficult to navigate. So, this room is accessible. Um...

Joseph B. Rose: Do we have a plan that's a current?

Martha Reichert: Yes. You have current plans which were submitted to the Board.

Joseph B. Rose: Right, I'm just trying...I...there's so much paper on this.

Martha Reichert: I understand. Do you want me to pull something up or...

Joseph B. Rose: That would be great if you could.

Philip O'Connell: What specifically do you want to see?

Joseph B. Rose: Just as you're talking, if we could just pass it through so we can look at it. I just don't have it open. Yeah. Thank you

Action: (Bill Hajek provided Member Rose with the most recent set of plans).

John L. McGuirk: Martha, I really would like to get everybody over there. Obviously, we can't go all at once, but I think a field trip for all of us would be in the making for the next month or so.

Martha Reichert: Sure. I think that that would be fine.

John L. McGuirk: If you can reach out to each board member individually so we can.

Martha Reichert: All right.

John L. McGuirk: Get over there.

Philip O'Connell: Um, in the meantime.

Joseph B. Rose: Okay. Sorry.

Martha Reichert: No, no, that's fine. Um.

Joseph B. Rose: It's hard to just follow it verbally. Well, without the visual.

Martha Reichert: Sure, sure. Uh, you know, long story short, not much has changed in terms of the structural improvements other than the fact that now, in response to the Board's comments, we do have an ADA compliant bathroom that will be, again, in the best place possible for the ADA design requirements. It doesn't change the size of the addition, so we were happy that we were able to make that work. Um, the pool has been redesigned, but, you know, sort of one of the more salient changes is we had originally proposed to relocate the shed, underneath a large elm tree. And through the process of reviewing all of the correspondence in the file, one person had raised an issue about that the pool might possibly impact, um, a large elm on the property. And so, we brought in an arborist to have him review our plans. And he said, no, the pool, the location of the pool isn't going to impact the elm, but the shed will, um, because this elm is in in the earliest stages of Dutch Elms Disease. And so, you can't impact or put any weight by its root system. Uh, so there were two bonus things that came out of that. We relocated the shed to its current location. It no longer needs a transitional yard setback. Um, and now we have, you know, a tree management plan to try to hopefully save this elm. Um, and so, you know, I feel like anecdotal, but it still shows the relevance of how we took those comments. And we're able to, in my opinion, design something better

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because we've eliminated transitional yard setback. We are keeping the shed sort of in its historic proximity to the main structure, and the pool equipment will go in there, meaning that, you know, we'll have great sound attenuation for the pool equipment. Um, and so, let's go back to what we're here before this Board for, for relief. You know, when we first started off, we needed transitional yard setback relief for several different items. Over the course of this process and through neighbors' comments and this Board's feedback, we've eliminated all setback relief, including the transitional yard. I think that's very significant because, you know, when the transitional yard setbacks were enacted, the idea was that commercial properties that abutted residential properties, that the current setbacks weren't enough. Right? So, these transitional yard setbacks were enacted with this specific goal of protecting neighbors' quality of life, air, light, etc... Right? So, we now comply with all of that. What we're here for is sort of what I tend to call the gatekeeping variance, because this is a preexisting non-conforming commercial use. Right? And we're changing it. So, any alteration requires a variance. But to do the improvements that we are proposing here, including the pool, and the patio, and the elevator addition, we need a lot coverage variance. Um, and we also need a GFA variance for the addition of the hotel. Um, but again, the GFA variances for, you know, basically an elevator shaft, it's biggest on the first floor because it has to accommodate, uh, you know, people getting into the elevator and that covered porch, which provides the appropriate pitching up to get into the main structure. So, we're looking at GFA lot coverage of about 847 square feet, I believe. And, um, you know, and one of the things that we've done is we've reduced a whole bunch of brick terraces that are non-conforming in their location to mitigate some of that. And, um, and that's what we're looking at. And, you know, one of the things that I thought was sort of relevant in doing all of my research, uh, was that when the Baker House was approved for a swimming pool in 2005, it was...when it received its Certificate of Appropriateness, because it is in the same Main Street Historic District. Uh, the Board unanimously approved it and issued the Certificate of Appropriateness. But, you know, there was a comment in the record in the minutes that Bob Hefner, you know, looked at it and because the pool was behind the house, which is in accordance with the Main Street Historic Design Guidelines, he said there was no impact to the Historic District. Um, similarly, there are two decisions, one at 19 Hunting Lane, that was the matter of Rosenblatt, and that was decided on October 28th, 2011, in which the applicant needed about a 450 more or less square foot coverage variance for a swimming pool. Um, and what the Board found was that it would create no undesirable change to the character of the neighborhood or detriment to nearby properties as a result of increased at grade coverage for patios, walkways, coping around the swimming pool and window wells. All of these are at grade and will not impact the neighbor's air and light, nor will they have a visual impact from the street. So, I think that that's a consistent finding that this Board has made throughout the years with respect to certain at grade improvements. What I found interesting was because this one also encompassed a swimming pool. Um, I understand that we're looking at a commercial property versus a residential property. Um, but this is sort of the precedent that I can find within the same, you know, neighborhood in close proximity and for actually a very similarly sized area. That pool was 32 by, I forget. Um, I have it in my notes...I think 32 by 20. Um, you know, ours is ten by 20 and eight by ten collectively together. So, I think that carries a certain amount of relevance. And, uh, I'd like to know if the Board has any further questions in terms of the changes that we've made so far or any comments?

James H. McMullan: I have one comment and it's more geared towards the plantings. I think in the past, the Board kind of, uh, put their view out that the front lawn and the side lawn are very kind of important to the Village, to keep those vistas. And I see in the new planting plans, you're coming off the front of what I think is the bar area, um, with a whole sweeping thing of plantings. Is there a possibility that they would eliminate that and keep that vista back to kind of where the plantings are now?

Martha Reichert: Yes. Um, I, you know, I'd have to go back and talk to my client, but we are completely willing to, you know, revise the planting plan to reflect what the Village wants to see. If anything, that was to just further mitigate the idea that the pool would be visible from Main Street or Hunting Lane. I think if you look at just the plans themselves, you can see that it's tucked into that corner of the building. So, even without the plantings, I don't think it would be visible. Um, but if we were to take that sort of extended row out of the mix, I think that would be acceptable to the client. Like I said, I need to confirm it with them, but.

Philip O'Connell: Just getting rid of that?

James H. McMullan: Yeah. Keeping this vista open (pointing at plans).

Joseph B. Rose: Pulling it back.

Philip O'Connell: They already have one right there on the corner.

James H. McMullan: Here, that would also block this (referring to the Partial Landscaping Plans by L. K. McLean Associates, P.C., received January 26, 2024).

Joseph B. Rose: I would agree with the point about the need to pull the planting back to maintain the sense of openness as much as possible while achieving the screening objectives.

James H. McMullan: So, it's this here (showing Martha on the Partial Landscaping Plan) that I kind of have a problem with and I would eliminate that and pull this back here, keep this intact because then that would keep this lawn open and the vistas that are...

Philip O'Connell: Would you even need to do anything because it's coming off the corner. You're already...you already have that. If you just get rid of this.

John L. McGuirk: Get rid of that, right.

James H. McMullan: Get rid of this and keep this. So, it does block the pool. Um, even though the...

Martha Reichert: Can I just (Approaches Board to look at plan)

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James H. McMullan: Yeah, absolutely, please. So, my biggest concern is this area here, keeping this lawn and vista open and keeping this where it is (Referring to the Vista just right of the Hunting Inn when looking at the building from Main Street).

Martha Reichert: Yes.

James H. McMullan: And that's kind of where the plantings are now, kind of off this back area.

Martha Reichert: Correct. This, this is more of what it looked like before. I think the idea was here because we're eliminating this walkway and this walkway. We thought it might look a little strange to have a walkway end here without some sort of landscaping and a pergola to set it off so that, you know, as you transition from that threshold, you're just in this, this lawn area. But if the open vista is what's important and you don't have a problem with the fact that this walkway is going to be eliminated. Um...

James H. McMullan: No.

Martha Reichert: You know, would you want to see a pergola there or, I mean, these are more like Design Review Board questions, but I think that getting your input here is important.

James H. McMullan: Yeah, I think it's just...this is more important to me than this. Just stopping here. I don't know about the rest of the Board, but.

John L. McGuirk: No, I agree. I think the more we can keep it open on the right side.

James H. McMullan: Yeah.

Martha Reichert: So, I do not believe my client would have any objection to that. I would like to confirm it with them, but that is absolutely a reasonable request that we can.

John L. McGuirk: Can we also get the hours of the pool defined? I mean, sunset, somebody might be looking at sunset in Malibu and get, you know, a little off. I'd like to have it defined.

Joseph B. Rose: It's clear that it shouldn't...

Martha Reichert: We'll have it be local.

Joseph B. Rose: Given the sensitivity to having clear hours and they could perhaps be seasonally adjustable based on the fact that, but not having people look in the paper every morning to see what time the sunset is.

Martha Reichert: Yeah. We can certainly, uh, do that, make those adjustments. You know, I think that at the height of summer, the sunsets at what, 8:00, 8:30. Um, you know, but I think if

we just rather than say, June hours, July hours and August hours, maybe we say 8:00 o'clock, right. Is that might be just...

Joseph B. Rose: I think the...

John L. McGuirk: Yeah, I'd like to see that.

Martha Reichert: We can...I mean I love specificity as well, so.

James H. McMullan: I have one other point. What is the protocol for the timber frame?

Martha Reichert: Yes.

James H. McMullan: I think that needs to be a little more descriptive.

Martha Reichert: Yes.

James H. McMullan: I think it says to the best of their ability, they'll try to save it. I think that needs to be said that it's going to be saved and they will. If there is a problem, I would hope that they come back to either Billy or Tom and the Board to mitigate anything that has to...

Martha Reichert: 100%. So, I didn't get to discuss that because I knew the Board would have some comments, but we retained the services of Steward Preservation Services. Mr. Joel Snodgrass, who has a, you know, a wonderful CV with respect to historic preservation and also consulting and overseeing major historic construction projects. And he was the historic, you know, sort of construction consultant for the Garner Foundation, right. And he has a lot of experience and knowledge here in, with respect to East Hampton's historic buildings. Um, I spoke with Joel. He couldn't be here today because he's traveling, but - and I also spoke with Billy about some of the things that they would want to see. And I think that what we would build in is an assurance that at no point is there sort of like a discretionary decision making on the part of the contractor, right? And that if there is a question, that immediately, you know, the team gets brought in and that's Mr. Snodgrass, that's Billy, that's the Chief Building Inspector, Mr. Preiato, um, you know, and I think that one of the things as Joel and I were sort of going back and forth of how we could make this the best protocol because I think that, um, there are a lot of variables here, right? Like, we know a certain amount of where the timbers are and they're really not expected to be impacted by the addition, right? Which is the major construction project. If you look very closely at the plans, they're different. Um, you know, we want to ensure, I think that once a contractor is selected, that there is a pre-commencement of construction meeting with Tom and Billy, right. So that the Village knows who the contractor is, the contractor knows who they are. And, you know, in my mind, I think that the protocol will probably get tweaked during the process, especially once someone gets, um, you know, selected and then once the actual work commences, right. And so, we want to cover the idea of protecting the portions of the Nathaniel Hunting Frame that we know exist and also have contingencies to bring in the Village as part of that consulting team, should we find new

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timbers, right? I mean, that's actually...it's a very exciting idea that we might find more of the frame and be able to document more of it. Um, as a historic preservation nut, that kind of makes me excited about it.

John L. McGuirk: Andy?

Andrew Baris: Martha, did you consult any of the neighbors on the new revised plan with the smaller pool and the hours of operation?

Martha Reichert: The hours of operation aren't new. That's something that's been on the table and discussed a long time ago. Um, I haven't had any recent discussions with any of the neighbors.

Andrew Baris: I mean, the pool size got significantly smaller, right?

Martha Reichert: So, the pool size is significantly smaller. In fact, it's smaller than most people's pools, right? And, um, you know, I know that if you look at the vast majority of the correspondence from neighbors and concerned members of the community, right, was this idea of the in having a pool and it could potentially jeopardize the Village's standing as the, you know, the Village Historic District, but also its compatibility with the Huntting and the Main Street Historic Districts. Um, you know, I think the Baker House pool shows that that's not an incompatibility, but, you know, moreover, swimming pools on their own do not, uh, destroy or render, uh, properties or even a conglomeration of properties from their Historic District standing, uh, nearly every single property in the Huntting Lane Historic District is improved with the swimming pool. Um, that's why we have the Historic District Design Guidelines, right. And this fits all of that. Um, we've followed those to a T, so in that sense, the pool and even the addition, right, because, you know, I know that most of the concern is around the pool, but let's look at the addition as well, right? Historic structures are allowed to have additions. The, you know, Department of the Interior promulgates design guidelines for that. Um, the Village has design guidelines for it. You know, additions are always encouraged to be in the rear, not visible from the street or, you know, in to match sort of the sense of place in the setting, right, architecturally, etc... And that's what we've done here. Um, everything's to the rear. The addition itself won't be visible from Huntting Lane, it won't be visible from Main Street. The pool won't be visible. Um, and then, you know, just to sort of go with the idea that these proposed improvements could jeopardize just the Villages' standing, right, the Village wide Historic District. You know, I looked at all of the national, um, regulations pursuant to that, and in order to have a structure removed from a district, it has to be petitioned, or just for a district itself to lose its standing, um, it has to be petitioned. And in the cases where it has happened, it's because a structure has been completely demolished, um, or completely changed so that it has no more historic value. And, you know, one of the things that I always want to bring back to is the reason The Huntting Inn is a contributing historic structure with respect to the National Register is the Nathaniel Huntting Frame, which is completely interior, right? They are interior timbers. Um, so there is no impact to the contributing historic value of the structure by adding

an addition that creates accessibility or even adding an accessory structure like a swimming pool.

Andrew Baris: I have no problem with the, um, construction. I have a problem approving a swimming pool when you have 8 or 10 of your neighbors coming out and participating in meeting that they don't want.

Martha Reichert: No, I, I understand that, right. And I think that they all...

Andrew Baris: I'm probably on the minority here, but that's how I feel about it.

Martha Reichert: Sure. I mean, we have reached out to neighbors in the past. Uh, we discussed with them, I think that we have mitigated, um, as much to the fullest extent possible and in fact, in excess of what's required under the traditional yard setback variances. Um, it is Black-letter law that even preexisting nonconforming commercial uses are entitled to their accessory uses. I think it would be hard to say that a swimming pool is not a common place accessory use for this type of commercial use. Um, and you know, again, the fact that we meet the transitional yard setbacks without needing, right - uh, we don't need setback relief. Setbacks are designed to mitigate the concerns of neighbors. And so if you were to deny this, based on the idea that several neighbors have complained, you know, I think what you're saying is that your transitional yard setbacks don't accomplish what they are supposed to accomplish. Right? And I think that that's a very slippery slope to start denying things that comply with setbacks. Um, purely based on neighbor opposition, when in fact most of the - most immediate adjacent uh properties have all received setback relief for their pools.

John L. McGuirk: Okay, can I just ask Billy to make a comment on the construction protocol?

Martha Reichert: Sure.

John L. McGuirk: Real quick, can you give us just...how we should button it up.

Philip O'Connell: I had an additional question. There was, um, there had been, uh, some impact to the timber frame prior.

Martha Reichert: No, uh, I - sorry, I didn't mean to cut you off.

Philip O'Connell: Well, you know where I'm going. Yeah.

Martha Reichert: Yes, yes. So there were some interior renovations that were done on the second and the third floor to rooms that are actually nowhere near the Nathaniel Hunting Frame. Uh, I forget the exact room numbers, but, you know, this was something that I brought to Billy and Tom's attention because when I found out that the work had been done, you know, I told them this happened, right? Um, but it was not in a portion of the Inn anywhere close to the Nathaniel Hunting Frame. So, it was not impacted by any.

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Philip O'Connell: So that covenant wasn't broken or impacted?

Martha Reichert: No.

Philip O'Connell: Okay. That was a question. Sorry, John, I didn't mean to cut you off.

John L. McGuirk: But I think that is one of our major concerns here. So, I would like to hear Billy speak for a minute and then we can figure out our next steps.

John L. McGuirk: And if there's any neighbors that want to speak, you can.

Bill Hajek: Good afternoon, Mr. Chairman, Members of the Board. Billy Hajek for the Village. I prepared and submitted to the Board a report dated March 1st, 2024. Um, and I just outlined sort of where the project stands, the history of when it was submitted, uh, the appearances before the Board and the changes that have occurred to the to the overall design. Um, in terms of the construction protocol, I did have a brief phone call with Mr. Snodgrass before they submitted it. Um, and, you know, I think as was indicated by Mr. McMullan, um, the protocol is kind of, I don't want to say boilerplate, but it's kind of like a boilerplate document. I think I'm looking for something a little bit more specific in terms of the actual, that he's analyzed the plans, has some understanding of where the timber frames exist or might exist, and that there's a firm statement that he does not believe that it's going to impact the, you know, the construction won't impact the timber frame. And then he can lay out the schedule for construction. And then, as we discussed, sort of like a sort of a stop gap measure, where if they do come across an issue that they have to deal with, you know, there's a ... there's a means and methods and a protocol in place to notify Tom and myself or, you know, a representative of the Village, and they won't just proceed at will and then say, "oh, we couldn't avoid it", because right now it's kind of vague in terms of we're going to avoid it if we can, which is ... that's not you know, that's not what we're trying to do here. So, okay.

John L. McGuirk: Okay, thank you.

Bill Hajek: And I laid it out in a in a very brief statement. I had a discussion with Martha about it. I think we were on the same page in terms of what they need to include.

John L. McGuirk: Okay. Thanks, Bill.

John L. McGuirk: Joan. You'd like to speak?

Joan Denny: Should I go up there?

John L. McGuirk: Yes, please.

Gabrielle McKay: I just have to swear you in. Please raise your right hand and state your name and address for the record.

Joan Denny: Joan Denny, 24 Huntting Lane, East Hampton, New York.

Gabrielle McKay: Thank you. Do you swear to tell the truth, the whole truth and nothing but the truth?

Joan Denny: Yes. Thank you.

John L. McGuirk: Good morning.

Joan Denny: You also may want my social security number (laughter). I'm here on behalf of a couple of the neighbors. I had submitted letters before, and I don't...I know you have them in the file, so I didn't want to bother you again with that. Anyway, if you want me to read it again, I can, from the last one in August.

John L. McGuirk: No, we all have them.

Joan Denny: Okay. Thank you. All right. This is for, um, Lisa Dortch, who can't be here. She has a scheduling problem. Um, and she's told me that, right. So, this says: "Good morning, Chairman, Mr. McGuirk and members of the Board. I'd like to read a speech on behalf of Lisa Dortch as she could not be here today due to scheduling conflicts. Chairman McGuirk and members of the Board, thank you for allowing Joan Denny to speak on my behalf today. The Village Hall file on Hunting Hospitality, LLC Variance Application contains over 50 letters of opposition. Many of those opposing have gone to great lengths to come before you to voice their concerns. I think it is accurate to say that this level of opposition is both remarkable and unprecedented in comparison to other Variance Applications submitted to our Village. We're a small...mostly small village, most living here enjoy living here because it is small. We look after one another and care about each other's well-being. We know each other. I might see one of you on the street tomorrow or the next day, and that is a nice thing. I do not understand why the folks at Hunting Hospitality are disregarding that their requests are not appropriate for our small Village's Historic District, and that their neighbors do not want it. I don't understand why they refuse to acknowledge that a pool will disrupt the quiet enjoyment of our properties, or why they just don't care about their neighbors. To date, they have not identified any real need for a pool. They just want one. They knew pre-purchase what the restrictions of their historic site were, and there is no evidence of the Huntting Inn ever having a pool. Huntting Hospitality's attorney brought up the fact that I received a variance over 20 years ago, and that is correct. However, the application process was conducted very differently. Prior to coming before the ZBA, I went to all of my surrounding neighbors and shared my plans. I asked what comments or concerns they had, and I revised my plans to address their concerns. I had sound financial reasons for my request, and by the time I came before the ZBA, I had letters of approval from all of my surrounding neighbors. You see, I wanted my neighbors to be comfortable with what I was requesting, and I was willing to forego the request had they not been. I think everyone

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here can agree that the less discontentment we have in our small Village, the better. Given all of the opposition, I don't see how this Board can rule in favor of these specific components of their application. I'm sorry to be repetitive, but it's worth repeating that the opposed aspects of their application are counter to our Village Comprehensive Plan. And as a preexisting non-conforming property located in two of our Historical Districts, the addition of components not appropriate to its historical nature has the potential to jeopardize both of these historic districts' place on the national registry. I hope, given all of the resident outcry, that it is clear to the Board that residents are counting on you to protect us and our Village by preserving the very elements of this Village that define it. Boards that came before you have managed to maintain the history and charm of our Village. Allowing this variance begins the chipping away of what makes our Village so special. In closing, I want to make one very important point. When the Hunting Inn renovated their parking lot over 20 years ago, a covenant was attached to the plan, the plan approval, requiring them to maintain all of the plantings, as well as a soundproofing buffer that was installed in the fence around the parking lot. The covenant allowed and required the Village to enforce the maintenance. The Hunting Inn did not maintain anything in accordance with the covenant, and only after I contacted the Village with concerns, was it restored to a minor degree. Simply look out the window of Village Hall and see this scraggly hedge that no longer blocks Hunting Lane from a view of their parking lot and the spotty vegetation along the parking lot perimeter. If this Board is going to consider approving an aspect of their plan, it is imperative that the approval contain a maintenance covenant that requires them to maintain plantings, soundproofing, etc. and provides for the Village to enforce that maintenance. Hunting Hospitality LLC is promising screening and sound proofing and that everything will be just fine. Subsequently, they should have no issue guaranteeing to maintain these elements. Absent a covenant, there is nothing to ensure that they will do what they say they will do, nor will our Village have the ability to enforce the doing of it. Thank you, Lisa Dortch". And my second one is from Matthew Grinnell and Susan Gilmer, who live at 35 Hunting. They couldn't be here. Anyway, they're in London, so they asked me to please speak on their behalf, uh, and say that they are strongly against having the pool there. Thank you.

John L. McGuirk: Thank you, Joan. Yes, sir.

Ken Lustbader: Hi.

Gabrielle McKay: Hi. Please raise your right hand and state your name and address for the record.

Ken Lustbader: Ken Lustbader, um, 68 Mill Hill Lane, East Hampton. Thank you.

Gabrielle McKay: Thank you. Do you swear to tell the truth, the whole truth and nothing but the truth?

Ken Lustbader: Yes, I do.

Gabrielle McKay: Thank you.

Ken Lustbader: Thank you. Um, I think it's good afternoon or good morning. I think we're at the 12:00 o'clock stop spot. Um. Thank you, Board. Thank you, Chair, for having me here. My name is Ken Lustbader. I reside at 68 Mill Hill Lane, since 2019. I've been a member of the community in East Hampton since 1998. I've been a preservation professional for over 30 years, working for various, not for profits and for most recently as a program officer in historic preservation at the J.M. Kaplan Fund. And I've been a consultant on many architectural reviews, as well as Section 106 reviews, looking at the appropriateness of any restoration changes and additions, accretions on nationally registered listed properties. Uh, today I'm speaking on my own behalf as well as for Frank Morgan and Brent Feigenbaum, the owners of 102 Main Street, which is the property immediately adjacent to the Hunting Inn. Although Mr. Morgan has addressed the board at prior meetings, he has been ready to speak at each of the subsequent meetings where the application had been scheduled but had been adjourned. He is unfortunately unable to attend today, so I'm presenting his views which align much to mine. So here is Mr. Morgan's statement. "I remain firmly opposed to the request for a variance to install a swimming pool and hot tub at the Hunting Inn. From the file and past hearings, the groundswell of sentiment against the proposal from affected neighbors and concerned residents is apparent and evident. As noted, before, the grounds to grant a variance were not met in this case. Even if it could be, the neighbors' concerns regarding noise and disturbances are real. Problems at the Palm Restaurant, as well as a fistfight at Le Bibliotheque last summer, are examples of trouble. Adding a swimming pool and hot tub to an establishment that serves alcohol can only escalate potential problems. The only speaker at the last hearing for this application in favor seemed to think that the Palm Restaurant was in danger of going out of business, so their application should be granted. Um, the applicant had every opportunity to supply financial information to support their application but has chosen not to do so. Any inference can be drawn that an inn that charges \$500 to \$700 per season, in the height of the season, and a restaurant where it's often impossible to get a reservation at a reasonable hour is doing just fine. Even if that was not the case, it's farcical to imply that their only salvation would be to install a pool and hot tub. Unlike the pool and hot tub itself, this argument does not hold water. At last summer's annual meeting of the Village Preservation Society, um, the guest speaker, Frank Sanchez, congratulated the Village on its record of preservation. However, he warned that such efforts can readily be eroded by the doctrine of creep. He cited an example of a variance to add a swimming pool and hot tub, which would inevitably lead to more requests, as we've seen here today, uh, where the applicant has cited the Baker House, which I'm going off. Mr. Morgan's script is not the same analogous, um, pool addition because it's completely in the rear and in this case, this is an adjacent to the view from the main street. Um, the various inns and B&Bs in the village are no doubt watching carefully how this application is handled. A pool and hot tub at the Hunting Inn and other commercial pools and hot tubs to follow would clearly change the nature and feel of our quaint inns in a residential community. In short, the concerns of the neighbors are legitimate. Given the balance of interests, those concerns should clearly outweigh the desire to add an amenity at a non-conforming commercial business that at best is a nice thing to have, but clearly not a must have. I hope that you will listen to the neighbors and concerned citizens about this proposal". So that's the end of Mr. Morgan's statement. I just want to add briefly that I support all the other upgrades, rehabilitation, ADA work, which is

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typical of a historic property in a National Register contributing um, District. However, I just want to call out that the ten by 20 pool and an eight by ten hot tub is at best, at least I should say inappropriate, at a listed property and most likely will never be reversed. And it's you know, I'm looking at this due to the site's relatively small footprint, its constraint on the landscaping itself, and it's immediately...it's immediate adjacency to the property will compromise the historic significance of the resource. Uh, leave it at that to heed the concerns of the public. Um, and I'm just thinking...that is it on my half. And, Mr. Morgan, thank you.

John L. McGuirk: Thank you for your time.

Philip O'Connell: I have just one question, Mr. Morgan's the adjacent neighbor on Main Street?

Ken Lustbader: Yes, facing. Yep.

John L. McGuirk: I think...I don't want to go. Um.

Martha Reichert: It's not so much a back and forth. It's just that I wanted to add...

John L. McGuirk: Yeah, I don't want to...Can you come back to the... (Asking Ken Lustbader to return to the podium to speak)

Ken Lustbader: Mr. Morgan had emailed me just prior to speaking, and he said that no one from the Hunting Inn had contacted him or any other neighbors that he's aware of. So, I just wanted to have...

John L. McGuirk: It is...if you go on the Village website, all the information is submitted. So, you can look at all the documents. Yeah.

Ken Lustbader: No, I have yeah, yeah.

John L. McGuirk: Okay great, thank you. I don't want to go... Go ahead. Okay, please.

Martha Reichert: Um. So, you know, in addition to being willing to covenant to the pool operation and anything else that the Board requires as a possible condition of approval, um, you know, I think that we are more than happy and would expect that this landscaping plan would be covenanted. Um, and that's again, you know, subject to we'll make the changes that the Board has given us comments on. But, um, that's something that we are absolutely expecting that would be a condition of approval, is to covenant the landscaping plan. Um, you know, with respect to the prior covenants and landscaping plan for the parking lot. Um, uh, the current applicant, the owner is a new owner in terms of when that first landscaping plan went into effect. And, um, and when issues were brought to my client's attention by Mr. Priato, they've restored fencing. Um, and, you know, and again, if the landscaping plan needs to be tweaked as part of its ongoing compliance, then that is, you know, something that we're happy to work with the Village on. And again, not to get into a back and forth, but in the earliest, uh,

meetings where Ms. Dortch was present and different members, um, you know, I spoke personally with Fritz Kallop when she was here. I spoke with Lisa, and I told her that my door was always open anytime she wanted to call and discuss something. As the application progressed, she could. She and I have spoken a couple of times. That was earlier in the process. My client went over and spoke with Mr. Morgan and his partner, um, you know, again early on in the process, and Mr. Morgan expressed that he just wasn't going to be able to support the application. But I do want to say that we have made ourselves available to discuss with neighbors, and we'll continue to make ourselves available to any neighbors who want to discuss questions about the application.

John L. McGuirk: Thank you.

Martha Reichert: You're welcome.

John L. McGuirk: So, I think we're going to keep the hearing open. Um, we want to review the, uh, construction protocol and get that a little tighter. Um, not so boilerplate, as Billy said. Um, I think we'd like to see the hours more defined. And I think everybody needs a little field trip. So, if we can arrange one, you know, we can't go obviously, as a group, we can go either in twos or one, but we can't go in threes. Any board members have any comments?

Joseph B. Rose: Yeah. I just want to speak to...I'm sorry go ahead.

Martha Reichert: No, I'm just here in case I need to respond.

Joseph B. Rose: Um. I just want to speak to a point that's been made by some Board members and to the neighbors, because I think this is the fact that there has been a substantial, uh, testimony and concern about this. This is legitimately...all the points made, I think, are legitimate points in terms of concerns about a very prominent location in the Village and in the Historic District. That being said, we have, uh, pretty clear parameters in terms of which, legally, in terms of which we have to look at this in terms of an accessory use, uh, for a pre-existing non-conforming use. Clearly, this application has dramatically improved compared to what the first iterations that we saw, both in terms of the particular physical nature and the character of the proposal, the landscaping issues are real. It's hard to argue that a small pool with appropriate, a set of constraints is not a, uh, an accessory, permissible and conceivable and customary accessible use for a, uh, for a Village inn. So, it's hard to...it's hard to not be open to an appropriately located, designed, and managed use in this, uh, for this kind of a facility, despite the fact that it is a...It's something of understandable concern to the neighbors. That said, and just to underscore what's already been said, the operation, in addition to the design and the and the physical characteristics that we're, uh, we're discussing, will continue to review, the operation of this, the vigilance in terms of the plantings, the screenings, the way in which this is managed in terms of its impact on neighbors is an important part of the viability of this as an acceptable accessory use. And that's something that as we continue to deliberate, we'll go and meet and look. But it's important that the operator, despite the objections, to the extent that this is something that's going to happen, that it may happen, uh, do its best to

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maintain a good neighbor status and the appropriate covenants and, uh, entered into, in terms of maintaining all the elements that are part of our consideration of this is crucial.

John L. McGuirk: Thank you, Mr. Rose. So we're going to keep this open. Um, so, uh, motion, does anybody else have anything in the audience? Okay.

Martha Reichert: So, we're keeping it open so that I can get to you revised landscaping plans...

John L. McGuirk: Hours?

Martha Reichert: And a revised, uh. Well, we'll clarify that the hours will be a set time rather than sunset. Um, and.

John L. McGuirk: Construction protocol.

Martha Reichert: Revised construction protocol. And, you know, one of the ways that I've sort of conceptualized the construction protocol is that, um, you know, rather than locking it in as one thing, you know, perhaps as a condition of approval, it could be subject to being tweaked and approved by the Village Planner and the Chief Building Inspector. I mean, we'll make revisions to it...

John L. McGuirk: I don't think we'll probably do that.

Martha Reichert: Okay.

John L. McGuirk: Because what happens is, is all of a sudden, you've never called them, and the work has gotten done and...

Martha Reichert: All right. So, we'll try to...I'll, I'll meet with Billy and try to make sure that we, you know, put belts and suspenders on everything and hit all the points that he wants to see on it in time for the next meeting.

Joseph B. Rose: Also, anything to do with the covenants that have...that are existing, and any future covenants referred to is something that should be clarified prior to our...

Martha Reichert: Yes. And actually, I would love clarification for that because in terms of what's in the Village's files, there is a referenced Jamie Lappin plan as being approved pursuant to that decision, but it's not included in the file anymore.

John L. McGuirk: Thank you.

Martha Reichert: You're welcome.

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John L. McGuirk: Okay. Um, so there's no more business. A motion to close the meeting.

Joseph B. Rose: So moved.

John L. McGuirk: Second?

Andrew Baris: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Thank you all. Have a nice weekend.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Incorporated Village of East Hampton will hold a public meeting at the LTV Studios, 75 Industrial Road, Wainscott, New York, on Friday, April 12, 2024, at 11:00 a.m. on the following applications and to conduct such other business as may come before the Board. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Public Board Meetings" tab.

Application of Lily Lane LP, SCTM#301-13-13-12, for Area Variances from Chapter 278, Zoning and Chapter 124, Preservation of Dunes and a Variance and Permit from Chapter 101, Coastal Erosion Hazard Areas, to construct additions onto an existing residence and make alterations to an existing residential cottage building. A Coastal Erosion Hazard Area Permit and Variance is required in accordance with Section 101-9 to clear vegetation and make alterations to a residential cottage building located seaward of the Coastal Erosion Hazard

Area line. A 66-foot variance is required from Section 124-1 A. (2) to make alterations to a residential cottage building that is located 84 feet from the southerly edge of beach grass where the required setback from the southerly edge of beach grass is 150 feet. A Coastal Erosion Hazard Area Permit and Variance is required in accordance with Section 101-9 to clear vegetation, construct decks and walkways, construct a three-story addition, and construct a veranda all located seaward of the Coastal Erosion Hazard Area line. Variances of 19 feet, 25 feet and 26.2 feet are required to construct a three-story addition to the existing residence, a veranda and decks/walkways located 131 feet, 125 feet and 123.8 feet, respectively, from the southerly edge of beach grass where the required setbacks from the southerly edge of beach grass are 150 feet. A 54-foot variance is required to clear land 96 feet from the southerly edge of beach grass where no disturbance or clearing is permitted within 150 feet from the southerly edge of beach grass. A variance is required from Section 278-2 B. (1) to permit an addition to a legally pre-existing third story where the maximum number of stories are two. The subject property is 140,295 square feet in area and is located at 29 Lily Pond Lane in Residence District R-180, FEMA Flood Zones VE (el.17) and AE (el. 10) and has frontage on the Atlantic Ocean Beach. This project is classified as a Type II Action in accordance with SEQR.

Application of Caitlyn Ann MacDonald, SCTM#301-2-7-20, for Area Variances from Chapter 278, Zoning, to make alterations and construct additions to an existing residence and construct accessory structures. A 300 square foot variance is requested from Section 278-3 A. (13) (a) to construct additions resulting in a res-

idence containing 2,556 square feet of gross floor area where the maximum permitted gross floor area is 2,256 square feet. A 6.4 foot variance is requested from Section 278-3 A. (3) (a) to construct a stoop 23.6 feet from the front yard lot line where the required front yard setback is 30 feet. A 10-foot variance is requested from Section 278-3 A. (5) (c) to construct a pool house 10 feet from the rear yard lot line where the required setback is 20 feet. A 289 square foot variance is required from Section 278-3 D. (7) to permit 740 square feet of accessory building gross floor area where the maximum permitted accessory building gross floor area is 451 square feet. The subject property is 12,555 square feet in area and is located at 62 Dayton Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Mark K. Webb, SCTM#301-1-1-21, for an Area Variance from Chapter 278, Zoning, to legalize coverage. A 242 square foot variance is required from Section 278-3 A. (9) (a) to legalize 1,965 square feet of coverage where the maximum permitted coverage is 1,723 square feet. The legally preexisting coverage appears to be 1,830 square feet. The subject property is 6,115 square feet in area and is located at 11 McGuirk Street Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Said Zoning Board of Appeals will at said time and place hear all persons who wish to be heard in connection with the applications. Interested parties may be heard in person, by agent, or by attorney.

Dated: March 15, 2024
By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals, Inc.
Village of East Hampton
37-2/188

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FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 4/12/24
TIME: 1:54 PM

John L. McGuirk III