

**Zoning Board of Appeals
August 9, 2024 - 11:00 a.m.
Emergency Services Building
1 Cedar Street,
East Hampton, NY 11937**

Those Present Were:

John L. McGuirk, Chair
James H. McMullan, Vice-Chair
Andrew Baris, Member
Abigail FitzSimons, Member
Shahab Karmely, Alternate
Gabrielle McKay, Deputy Village Clerk
Tim Hill, Esq., Village Attorney
Bill Hajek, Village Planner
Tom Preiato, Village Principal Building Inspector
Jason Nower, LTV Broadcaster
Leonard Ackerman, Esq., Representative for Sophia Hudson – 15 Drew Lane
Linda Margolin, Esq., Representative for Sophia Hudson – 15 Drew Lane
Manuel Damien Zamora, Representative for Sophia Hudson – 15 Drew Lane
Britton Bistrian, Representative for Stanely De Jongh Osborne & Virginia Osborne – 27
Hunting Lane
Allen Robinson, Representative for Stanely De Jongh Osborne & Virginia Osborne – 27
Hunting Lane

Those Absent Were:

Joseph B. Rose, Member

John L. McGuirk: Good morning, all. Welcome to the Village of East Hampton Zoning Board of Appeals meeting for Friday, August 9th, 2024. Again, we'd like to thank LTV Studios for helping us out the past few months. And welcome back to the Emergency Services Building.

M I N U T E S
JULY 12, 2024

John L. McGuirk: The minutes for July 12th, 2024. May I have a motion?

James H. McMullan: So moved.

John L. McGuirk: Second?

Abigail FitzSimons: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

EXTENSION OF TIME REQUEST
Mark K. Webb – 123 Egypt Lane – SCTM#301-9-1-6

John L. McGuirk: We have an Extension of Time Request for Mark K. Webb, 123 Egypt Lane. Billy, can you just give us a quick.

Billy Hajek: The applicant's representative has requested an additional year to complete the project. They are still in the process of engaging... The request indicates that they're still in the process of engaging a contractor for the work. So, they've asked for another year. I wouldn't have any objection to the Board approving another year.

John L. McGuirk: Okay. Tim, do we make a motion on this?

Tim Hill, Esq.: Yes.

John L. McGuirk: Okay, so, can I have a motion for an Extension of Time for 123 Egypt Lane for one more year.

James H. McMullan: So moved.

John L. McGuirk: Second, please.

Abigail FitzSimons: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

DECISION ITEM
Ethelyn Atha Chase and Daphne Rowe – 15 Jones Road – SCTM#301-12-7-3

John L. McGuirk: We have two determinations today, and the entire files are at Village Hall.

John L. McGuirk: In the application of Ethelyn Atha Chase and Daphne Rowe, 15 Jones Road, SCTM#301-12-7-3 for an Area Variance and a Wetlands Permit to construct a swimming pool, drywell, fencing and pool equipment is granted with conditions. May I have a motion?

James H. McMullan: So moved.

John L. McGuirk: Second?

Abigail FitzSimons: Second.

John L. McGuirk: Gabby, poll the Board, please.

Gabrielle McKay: Mr. McGuirk.

John L. McGuirk: Yes.

Gabrielle McKay: Mr. McMullan.

James H. McMullan: Yes.

Gabrielle McKay: Miss Fitzsimons and then, um, Miss Fitzsimmons, if you could just say that you reviewed the application.

Abigail FitzSimons: Yes. I was not at the June meeting, but I have reviewed the minutes, the application and the June meeting, and I was present at the July meeting, so I'm able to render a decision.

John L. McGuirk: Thank you.

Jason Nower, Broadcaster: Pardon me. Should also be noted that one person just did show up to LTV, but they are being sent over here right now.

John L. McGuirk: Thank you. Well, the hearings are coming up.

DECISION ITEM

Nancy Kane Testamentary Trust – 29 Dayton Lane – SCTM#301-8-3-15

John L. McGuirk: In the application of Nancy Kane Testamentary Trust, 29 Dayton Lane, SCTM#301-8-3-15 for an Area Variance for excessive coverage to construct a patio and pool equipment is granted. May I have a motion?

James H. McMullan: So moved.

John L. McGuirk: Second?

Abigail FitzSimons: Second.

John L. McGuirk: Gabby, poll the Board, please.

Gabrielle McKay: Mr. McGuirk.

John L. McGuirk: Yes.

Gabrielle McKay: Mr. McMullan.

James H. McMullan: Yes.

Gabrielle McKay: Miss FitzSimons.

Abigail FitzSimons: Yes. And again, I was not at the June meeting, but I've read the minutes, the application, and was present for the July meeting and can render a decision.

ADJOURNMENTS

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

Whitehouse Partners LP – 95 Egypt Lane – SCTM#301-4-10-3

Abraham M. Dweck and Robert Levine – 19 Mill Hill Lane – SCTM#301-8-7-33.16

Guild Hall of East Hampton – 158 Main Street – SCTM#301-8-5-3

Beach House Realty LLC – 19 Lee Avenue – SCTM#301-13-9-4

Richard A Shilowich Living Trust – 31 McGuirk Street – SCTM#301-1-1-28

John L. McGuirk: Thank you. The adjournments for today. Hunting Hospitality LLC, Whitehouse Partners LP, Abraham M. Dweck and Robert Levine, Guild Hall of East Hampton, Beach House Realty, LLC, and Richard A. Shilowich Living Trust.

ORIGINAL HEARINGSophia Hudson – 15 Drew Lane – SCTM# 301-13-13-4

John L. McGuirk: We have the new hearings of the day. Can you just tell me who's sitting on these hearings?

Gabrielle McKay: So, for 15 Drew Lane, we have Mr. McGuirk, Mr. McMullan, Mr. Baris, Ms. FitzSimons and Mr. Karmely. And then I'll read the public hearing notice. Application of Sophia Hudson, SCTM#301-13-13-4, in accordance with Section 278-7 B. (1) of the Zoning Code, requests to appeal the Building Inspectors interpretation that the renovation and reconstruction of a residence that is legally preexisting and nonconforming in Gross Floor Area and Coverage requires variances from the provisions contained in Section 278-3 A. (9) (a) and Section 278-3 A. (13) (a) and in the alternative is requesting a 707 square foot variance from Section 278-3 A. (13) (a) to make alterations resulting in a residence containing 4,701 square feet of gross floor area where the maximum permitted gross floor area is 3,994 square feet and the legally preexisting gross floor area is 4,852 square feet. The subject property is 29,449 square feet in area, is located at 15 Drew Lane and is in the Residence District R-160. The project is classified as a Type II Action in accordance with SEQR.

John L. McGuirk: Thank you, Mr. Ackerman.

Leonard Ackerman, Esq.: Mr. McGuirk. Um, what I'd like to do, if it's okay with you and the Board, is have Linda Margolin, uh, give a short presentation on our interpretation argument, and then, if necessary, I'll proceed with the Variance Application. Is that all right?

John L. McGuirk: Thank you. Okay.

Linda Margolin, Esq.: Good morning, Chairman McGuirk and members of the Board. My name is Linda Margolin, and I'm one of the lawyers for the applicant. At this point, I'm going to be discussing a couple of sets of minutes of the Village Board that bear on interpreting this ordinance. And I'd like to hand them up. I've got enough copies for everyone on the Board plus your attorney. (Handed copies of minutes to the Board)

John L. McGuirk: Thank you.

Linda Margolin, Esq.: Um, so the ordinance in question was adopted in 2021, and it says, uh, excuse me... It was the subject of an introductory resolution in July of 2021. And what was proposed at that time was a statute that said, a non-conforming building or structure which lawfully exists, that is devoted to a conforming use, which is what we have here, may be enlarged, reconstructed, structurally altered, restored, or repaired in whole or in part, except that the degree of nonconformity, which is in quotes, shall not be increased. For the purposes of this subsection, an increase in the quote-on-quote degree of nonconformity shall include any increase in the nonconformity of a non-conforming building or structure with the dimensional regulations of this chapter and shall include any increase in the nonconformity related to length, width, or height of the nonconforming portion of the building or structure. This particular residence has a single nonconformity, which is its gross floor area exceeds the gross floor area that's currently

allowed under the Code. The proposed changes to the building, which represented essentially lopping off certain parts and adding certain parts, um, resulted in a GFA that was less than the preexisting non-conforming GFA, and therefore we believe that it was entitled to a Building Permit without the need for a Variance, because the nonconformity at issue and excessive GFA was not being made greater. Um, we submitted a memorandum of law that was based on a Code Interpretation Letter that we got from the Building Department, which was subsequently withdrawn. But since that time, we've submitted plans, and the Building Permit was denied upon the grounds that we needed a Variance for the GFA. So, we are still here for an interpretation. Um, what I wanted to point out to the Board, aside from the plain language which allows alteration, reconstruction and enlargement, so on and so forth, is that when this came on for consideration as an Introductory Resolution before the Village Board, um, and that's the excerpt of the July 30th, 2021 minutes that I've provided to you, um, there was, uh, there were two comments that were made before it was set for a Public Hearing. Um, it said that, um, and I'm going to read from the minutes. Billy Hajek provided a brief introduction of the proposed legislation. The present code is somewhat vague on non-conforming buildings containing conforming uses. For example, currently a single-family residence required setback as 20ft. The building sits ten feet from the side yard. Repairs, such as replacing rotten sills or moving a window, are currently perceived as alterations because it's structural work and would require a Variance. In the past, the Building Department has used their judgment in deciding which projects need a Variance or not. Repairs and alterations that don't increase the degree of nonconformity if the house doesn't get any closer to the property line or bigger, should be permitted without review by the ZBA. The proposed legislation defines it much clearer. That was Mr. Hajek's comment. And then it says that Board members and Building Inspector Tom Preiato were in agreement and felt it would be much easier for homeowners, the ZBA and the Building Department. I will say that as people who work regularly, as council for property owners who want to know what they can do with their property, of course, clarity in the Code helps, because when clients ask us for advice on what they can do without a Variance, we're able to look at this Code section and say to them, or at least we thought we could, if you want to do something to the house, change the way it's shaped, but you're not exceeding your preexisting non-conforming GFA. You should be able to pull a Building Permit for that without going to the ZBA. The other comment that I wanted to point out to you occurred at the Public Hearing that was held on August 20th, 2021. And that's the second excerpt that I've given to you. Um, simply, there were a great many comments because there was a whole suite of changes in the Zoning Law that were enacted at that time and on for a Public Hearing, but the very first one, which was called Introductory 16 and became Local Law 19 of 2021, really had only one substantive comment from all of the people who commented. And that comment was from your Board member, Joe Rose. And what Mr. Rose had to say, and I share this with you, because he was speaking from the perspective of a ZBA member, was he said, this amendment regarding alterations and repairs to non-conforming buildings containing conforming uses makes good sense as long as it does not apply to use changes. And then he goes on to express that his concern is that a non-conforming structure devoted to a conforming use. He wanted to make sure that this portion of the law wouldn't allow a change in the use to a non-conforming use, or a different use. And that's not what we're asking for. We are asking for an interpretation that we think is quite straightforward and matters not only to this case, but generally to people who own property in the Village, which is, can we in fact alter, enlarge, reconstruct, so on and so forth, a nonconforming structure

devoted to a conforming use, as long as we don't increase the degree of nonconformity? And I'd urge you to say the answer is yes.

John L. McGuirk: Thank you. Board members, any questions for Ms. Margolin?

James H. McMullan: Not at the moment, no.

John L. McGuirk: I'm going to... I'll ask a question.

Leonard Ackerman, Esq.: Sure.

John L. McGuirk: Is this a rebuild or is this a teardown?

Leonard Ackerman, Esq.: It's a renovation.

John L. McGuirk: Okay.

Leonard Ackerman, Esq.: Linda, come up here.

Linda Margolin, Esq.: Oh, I'm sorry.

John L. McGuirk: I just, um... I want to point out on your demo plan here on D 100, number one says demolish entire structure from footing to top of the roof, including all footings, foundation walls, slabs, exterior and interior walls, windows, doors removed existing equipment including electric, mechanical and plumbing. That's why I'm...

Linda Margolin, Esq.: It's just a portion of the of the house.

John L. McGuirk: Well, it says... The whole thing says one basement demolition plan.

Leonard Ackerman, Esq.: We have the architect here to explain any of the... Damien is here. Would you like him to come up here?

John L. McGuirk: I'd like to hear from Tom next.

Leonard Ackerman, Esq.: I'm sorry, of course.

John L. McGuirk: To give his... Because he gave the... Please.

Tom Preiato: Thank you, Mr. Chairman, and members of the Board. So, I just wanted to speak in a general sense before we get to the actual project and give a sense of how my office and myself looked at the non-conformity of something such as GFA and you know, in consideration of Section 278-1(8)1A and those changes made within. Just as a basic premise, I'll say I, but I'm speaking from my office, I feel that GFA, especially when it's non-conforming, it is something that needs to be maintained and can be abandoned if not properly considered or moved around. So, even as GFA is moved around... Let me put it this way, that the GFA that's non-conforming,

I feel is non-conforming in that volume in that particular area where it exists, because as GFA is moved to different areas on the property, regardless of if it can make the setback or not, it can have differing effects. Um, you're moving around GFA that you don't have as of... Well, I won't say that you don't have a as of right, but it doesn't... It's not code compliant. It's a non-conforming situation. So, you're moving something that's a bonus that you have. And so, you know, I agree that the Code goes on to say that non-conforming structures can be altered as long as the nonconformity is not increased, but it also goes on to talk about length, width and height and dimensionally. So, I'm of the mind that if you're taking GFA that is a bonus to you because you have a non-conforming issue and you put it in a space where it never existed, I'm considering that a non-conformity and I, you know... We look to the Board for some kind of clarity in an attempt to move forward in the proper direction and guidance.

James H. McMullan: So, what you're saying is, basically, the volume of the house and how it's perceived from the street and stuff is changing in this instance.

Tom Preiato: It is. I mean, the Code doesn't really...isn't specific there. I mean, I um, so yeah, I don't want to read into something that's not in the Code and it's not, you know, we know the intent of GFA and massing, et cetera. But somebody already has that here and they're, you know, grandfathered in for that volume. But once you take that volume and put it somewhere else, it can have a different effect on different properties. And that's consistently how we've been. And I just wanted to explain that...

Shahab Karmely: I have a question because typically when you have non-conforming, grandfathered bonuses in place, there are two schools of thought. One school of thought is you have it because it was grandfathered. And once you do away with it for whatever reason, you don't get it back here under the Code. You do get it back, you do. You do get to be additive as long as you are not increasing that nonconformity. So, you agree with that?

Tom Preiato: Yes. I mean, until you... Until you're putting it in a spot where it never was.

Shahab Karmely: And then when you look at what they are suggesting here, and the demo does seem to be extensive, by the way, but what they're suggesting here, if it wasn't the issue of playing around with conformity and this was a new plan coming in front of you, do you see other issues with this plan if you put aside the point of, well, you know, you're kind of playing around with your bonus that you had before. It's a brand-new application here in terms of setbacks, in terms of heights, in terms of, you know, the various other code issues. Do you see an issue with this?

Tom Preiato: Well, I see it as a stretch to, to call it a renovation alteration, quite honestly.

Shahab Karmely: So, that's the main issue though, because when I look at the demo plan, that's what I see. It's pretty extensive.

Tom Preiato: Yeah. I mean, I don't want to speak to what the Board has before them. I just want to stay with...

John L. McGuirk: Yeah, let's hear what the architects have to say.

Tom Preiato: Thank you.

John L. McGuirk: Thank you.

Manuel Damien Zamora: Apologies for being late.

Gabrielle McKay: It's okay.

Manuel Damien Zamora: Apparently, it takes more than four hours to get here.

Gabrielle McKay: I'm just going to swear you in.

John L. McGuirk: Traffic, right?

Manuel Damien Zamora: Genuinely.

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

Manuel Damien Zamora: Manuel Damian Zamora, 3198 West 18th Street.

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

Manuel Damien Zamora: I do.

Gabrielle McKay: Thank you.

John L. McGuirk: Good morning.

Manuel Damien Zamora: Good morning. So, should I answer the question about the demolition?

John L. McGuirk: Or do you have a... Maybe just go over the plan a little bit?

Manuel Damien Zamora: Sure. Maybe I'll start with just the intent. What we set out to do. Because I think it might put in perspective why the house is configured like this. It was a unique case condition in the sense that we had an owner who wasn't actually necessarily interested in preserving her rights to a large home. She had a very clear vision of what she wanted to do, which was to bring it back to some degree of its history. So they hired us because of that, and we tried to do something that made sense. One of the things that we also discovered in the disposition of the house, what was original and what was added, that was part of the program and what was added was in a location that shaded much of the lot, created a lot of shadow and what is going to be a hobby of hers, gardening. So, we decided by swinging that mass, which is basically the living room, which is currently a two-story mass, more in line with the existing house that we would achieve that. So, in doing so, we are trying to preserve as much of the main

mass of the house, but also the demolition notes that you're referencing, number one, really affect the areas where we're actually peeling away. So, just going from the upper right-hand corner clockwise, the screened porch, that's the area of the house that we are peeling off. The living room we're peeling off. And the living hall, enclosed porch, vestibule, it's very hard to see without the second floor overlaid on top of it, but much of that is actually, um, under well... I shouldn't say much of it, but probably about 50% of that is under the existing portion of the second floor, the vestibule and part of the enclosed porch. But in order to support that, in coordination with the engineers, those foundations, those walls would need to be removed. And then swinging finally to the upper left-hand corner, that other note, the number one there, what was a porte cochere in 1915, we're going to peel that off there, partially because it's not in use currently. It's an outdoor deck right now, and she has no use for it. And it also just doesn't feel... It lengthens the house unnecessarily.

John L. McGuirk: Any members have any questions.

Andrew Baris: Not at the moment.

John L. McGuirk: Okay. You want to keep going? Or are you...

Manuel Damien Zamora: Uh. I could, but I don't want to waste your... You know, I'm happy to answer any questions, but it's, uh...

John L. McGuirk: What's everybody's feeling on this? Please? Yes, please Ms. Margolin.

Linda Margolin, Esq.: Um. If I understand Mr. Prieto's presentation, um, his suggestion is that the language at the end of the section creates some ambiguity over what it means by saying length, width or height. Um, and I would tell you that, um, length, width and height have to refer, essentially, to yard setbacks and height limitations in the Village Code. They clearly don't refer to GFA, which is something different. Gross floor area is measured to the exterior of the frame of a building. It's... It is not... I mean, I would say it has a relationship to the building's volume, but it's not a volumetric measure. The Code doesn't have a volumetric measure. And the, um... I don't want to call the Building Department's concern, but the Code does not purport to regulate volume. It regulates yard setbacks, it regulates height, it regulates GFA. And so, given the rules for construing ambiguities in zoning code enactments, even if you thought this was ambiguous, we would argue that you're obliged to find the interpretation that is favorable to the homeowner and unfavorable to the municipality, because it's a municipality's obligation to enact zoning codes with clarity.

John L. McGuirk: Board members? I mean, I don't have any issue with it, but as long as it remains a remodel, not a total tear down and replaced. That's my opinion.

James H. McMullan: Yeah, I mean, I totally understand where the applicant is coming from as well. Um, there is not a portion of the Code, as Tom said, also, when it comes to volume or massing. As long as these changes do fall within the Code and do not require variances for setback or height or something like that, then, um, I don't have a problem with this.

John L. McGuirk: Any other Board members?

Shahab Karmely: I agree. If it's conforming. And that's why I asked that question specifically. If it's conforming and it came as a new project and is conforming, then I support it. I have no issues with it.

Tim Hill, Esq.: Mr. Chairman.

John L. McGuirk: Yes.

Tim Hill, Esq.: I just... To clarify, and Mr. Ackerman, you can confirm that this is an application in two parts. In the first instance you're asking for an interpretation.

Leonard Ackerman, Esq.: Yes, that's correct.

Tim Hill, Esq.: If the interpretation is one way, it mutes the request for a variance.

Leonard Ackerman, Esq.: That's correct.

Tim Hill, Esq.: It's another way, you have in the alternative an application for variance relief.

John L. McGuirk: I think we're giving a variance.

Tim Hill, Esq.: Okay. So, I think um... I don't know if the Board is prepared to vote today, but um, the sequencing would be a decision on the interpretation and subject to that decision, a decision on the, well, the variance.

Leonard Ackerman, Esq.: Well, if there... If I have a majority on the interpretation, why is it necessary to pursue and waste your time on a variance application?

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

Leonard Ackerman, Esq.: Yeah. I'm sorry I...

John L. McGuirk: Give an interpretation on the... It will affect other properties down the road, right? If we give... I'd rather give the variance for this.

Leonard Ackerman, Esq.: Yeah. I'm sorry.

John L. McGuirk: I'd rather give the variance for this particular property, than an interpretation of the Code. I don't...

Tim Hill, Esq.: I think just to complete the record.

Leonard Ackerman, Esq.: No, no I mean I can go through the variance...

Tim Hill, Esq.: Make your argument in the alternative.

Leonard Ackerman, Esq.: I'm prepared, but, um, if there's... If there is a majority that agrees with the interpretation. I think this is a really important interpretation of this provision. I can say that probably one third of all variance applications in this Village, okay, are in violation of this statute. Most homes in East Hampton, you go down McGuirk Street, you go down Drew Lane, you go down Egypt Lane, you go down Georgica Road, my own home that was built in 1978, every home in East Hampton. I bet most of your homes are pre-existing non-conforming. And we advise clients based upon the statute. And in our view, and I believe the majority of your view, though I shouldn't speak for you, sorry, it's unnecessary to go and spend the time and the money to bring applications for variances. This work has been pending in this application for interpretation since March of last year. It seems to me that a good interpretation, a well written interpretation and direction to the Building Department to issue building permits in such cases where you have pre-existing non-conforming would be appropriate. It would save the homeowners time and money. It would save this Board's time and energy. It would save the Building Department's time and denial. It would save Billy Hajek's time in reviewing applications. I've gone through the last six months, a list of applications before this Board, and more than one third of them, probably half of them, are preexisting non-conforming homes that don't exceed what's permitted. So, I'd ask you to take a serious, hard look at this question and give a proper interpretation that could guide us as attorneys, as architects, as builders, in advising our clients. So, Tim, if you want me to, I'll quickly, John, I'll quickly go through the variance.

John L. McGuirk: Okay.

Leonard Ackerman, Esq.: So, we have a pre-existing home of 4852 that's pre-existing non-conforming. There's no question about it. We're proposing a home of 4701, that's correct, right Peter? 4701. The, um, the present Code permits a GFA of 3994, so, that's a 707 variance that exceeds what's already pre-existing non-conforming. The grounds that establish a variance are the following. No impact on character of the neighborhood. In fact, we're reducing the GFA by 151ft². This is a traditional home as the architect and the plans indicate. Are there any alternatives to a variance? No, because the house is already pre-existing, nonconforming and based upon an interpretation, the variance should not be required. But it is presumably here. Is the variance substantial? No. Since there's less GFA. Is there any environmental impact? No, there is no environmental impact, obviously. Is it self-created? Well, actually, when the client bought this property, she was advised by her architects and counsel that it was not necessary to have a variance. Theoretically, it is not self-created. There is a letter from an adjoining neighbor who has supported this application. So on that basis, we would certainly be entitled to a variance.

John L. McGuirk: Thank you. We have two things pending here. Do we just close the hearings?

Tim Hill, Esq.: Yeah. You can close the hearing and...

John L. McGuirk: Vote on it next meeting?

Tim Hill, Esq.: Yeah.

John L. McGuirk: Okay.

Leonard Ackerman, Esq.: Yeah. I'd ask that the hearing be closed.

John L. McGuirk: Does anybody have any questions? No? All right. So, motion to close the hearing?

James H. McMullan: So moved.

John L. McGuirk: Second?

Andrew Baris: Second.

Leonard Ackerman, Esq.: Okay, thank you.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: I don't know if there was anyone... Sorry about that. We need to reopen this hearing really quick. Is there anybody in the audience that has anything to say on the hearing? Okay. Motion to close the hearing again.

James H. McMullan: So moved.

John L. McGuirk: Second?

Andrew Baris: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Okay.

James H. McMullan: Thank you.

ORIGINAL HEARING

Stanley De Jongh Osborne and Virginia Osborne – 27 Hunting Lane – SCTM# 301-3-8-4

Gabrielle McKay: Okay, so for 27 Hunting Lane, we have Mr. McGuirk. Mr. McMullan, Mr. Baris, Ms. FitzSimons, and Mr. Karmely. And I'll read the public hearing notice.

John L. McGuirk: Thank you.

Gabrielle McKay: Application of Stanley De Jongh Osborne and Virginia Osborne, SCTM#301-3-8-4, for Area Variances from Chapter 278, Zoning, to make alterations to an existing residence that exceeds allowable gross floor area and to construct a detached garage. A 1,059 square foot variance is requested from Section 278-3 A. (13) (a) to make alterations to a preexisting nonconforming residence containing 4,496 square feet of gross floor area where the maximum permitted gross floor area is 3,436 square feet. A 7.5 foot variance is requested from Section 278-3 A. (5) (b) to construct a detached garage 7.5 feet from a side yard lot line where the required side yard setback is 15 feet. The subject property is 24,369 square feet in area and is located at 27 Hunting Lane in Residence District R-40 and the Hunting Lane Historic District.

This project is classified as a Type II Action in accordance with SEQR and requires review by the Village Design Review Board.

John L. McGuirk: Good morning. Can you swear Britton in, please?

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

Britton Bistran: Britton Bistran, 21 Napeague Harbor Road, Amagansett, New York.

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

Britton Bistran: I do.

Gabrielle McKay: Thank you.

John L. McGuirk: Good morning, Britton.

Britton Bistran: Good morning. I'm here today representing Virginia and Stanley Osborne, the owners that reside at 27 Hunting Lane in the Village. I'm joined by Allen Robinson, who is the architect for the project and can address any design questions should the Board have any. The subject property is a half-acre, parcel of land on the south side of Hunting Lane, approximately 500ft east of Main Street. It's improved with a two-story residence, swimming pool, and a detached garage. All the improvements are covered under the Certificate of Occupancy. The proposal in front of you today can be boiled down to two variance requests. One, ironically, is what, um, Mr. Ackerman was just up here discussing, but I'm still going to proceed with the variance, regardless of how your interpretation goes. Um, the first is to renovate and make minor adjustments to the two-story residence, which results in minor exterior changes. On the first floor, this includes elimination of a powder room bump out adjacent to the front porch and the entrance facade and filling in a small area of the kitchen where there's another sort of awkward bump to have the main entry elevation appear as one consistent line facade on the first floor. The second-floor work involves combining three existing single dormers into one overall dormer, again making just sort of a clean, straight line across the second floor. Both of these changes are to simplify rooflines and facades and improve the street appearance. The net result of these changes is a nominal reduction in GFA. It's one square foot less than the house, um. As was noted in the previous presentation, similarly, this house was constructed under the old code, which permitted greater GFA than allowable today. Um, this... I believe it's important to highlight that the House GFA is grandfathered and legal as it exists, and the net result of this project is a reduction in that legally existing GFA, which is moving towards zoning conformity, not the opposite. The second area of variance request is for a side yard setback for the detached garage. The current detached garage was built in 2002. I believe Billy included the variance paperwork for that. It was granted both a side yard and a rear yard setback variance in 2002 for its construction. The goal of the project is to keep the garage in a similar location, which has a precedent on Hunting Lane. I believe Bob Hefner looked at that back in 2002 and found that the majority of the freestanding garages on Hunting Lane were sited in a similar location, tucked in the rear, giving expanse between the house and the garage. The proposed garage that we are

requesting will move the variances from 2 to 1, so ours is conforming to the rear yard setback, which the current garage is not, but it is non-conforming to the side yard, which is the current is not as well. All in all, the variance requests, I believe, are minor area variances, which result in similar conditions to what appears on the parcel today. I'm not certain that anyone with a naked eye could actually read the volumetric reduction of a house by one square foot, or the siting of a garage mere feet from its existing location, and a similar height. The benefit to the applicant in realizing their desired appearance and design far outweighs any potential neighborhood impact or any detriment. And we feel that the reduction in the nonconformity is granted, albeit a one square foot GFA and one less variance for the garage, it does move towards conformity, which is the purpose of zoning is to become more conforming over time. I do believe that the house, the street facade, if you look at the proposed versus the existing elevations which appear in your packet, the street side appearance is a benefit to the applicant and the neighborhood and the Village Historic District overall. Other than that, I stand here for any questions that the Board may have or should they wish to hear from Mr. Robinson, he's here as well.

John L. McGuirk: I think we'd like to hear from Billy next, if we can. Thanks, Britton.

Billy Hajek: Good morning, Mr. Chairman. Members of the Board. Billy Hajek for the Village. I prepared a memorandum to the Board submitted to you earlier this week. I can review that, or if you have any specific questions.

John L. McGuirk: Just want to hit maybe a few highlights on the memorandum?

Billy Hajek: Sure. As described by Ms. Bistran, it's an existing two-story residence that exceeds the current allowable gross floor area. It was constructed pursuant to zoning. The gross floor area has changed a little bit. I'm not... Probably a measurement item, I don't know, I'm not exactly sure. It was slightly smaller when it was originally built. It's slightly larger now. Again, I would imagine it's purely how architects are measuring gross floor area. But at the time it was constructed, it was 12% plus 1200 square feet of gross floor area. And today's regulations are slightly smaller than that. So, this is in the Hunting Lane Historic District. The property is, the building itself is not historic, nor is the garage, the existing garage, they were all constructed in 2002. At the time the building was constructed, and the garage was constructed, there was a lot of attention paid to the proposed garage. Originally, if I read the file correctly, the garage was proposed closer to the street in the front yard area, being part of the house, through multiple, I guess, negotiations with the then owner. The garage was moved to the rear of the property and tucked into the back corner of the lot, which is very consistent with the historic development patterns within the Village, not just the Hunting Lane Historic District, but the Village in general, garages tend to be tucked into the rear corners of properties, specifically smaller properties in that nature.

John L. McGuirk: And I actually sat on this in 2002. I don't look that... I'm aged, but we specifically put that garage in the corner because that's what Hunting Lane and that's what most of the garages in the Village, most of the older neighborhoods in the Village have the garages tucked in the corner. This was a big house on the lot when we approved it. Um, so I just, you know, to go to your point, we spent a lot of time getting the garage in the corner on this property.

Billy Hajek: Yeah, I mean that was the focus of the application, I guess was the garage at that time. I would also just point out that the Village has encouraged garages to remain garages. You know, the idea that they are used for storage and parking of automobiles, not being used for pool houses and entertainment areas. This one has doors, patios, and arbors that, or not an arbor, but an awning that makes it attractive for use other than a garage. If it were a pool house... You could have a pool house in the garage, or you could have a rec room in there. But the setbacks would vary. You would have to... It would have to be moved into the property to meet the required setbacks.

John L. McGuirk: And Billy or Britton, did this go to the DRB yet or has not?

Billy Hajek: It has not gone to the DRB.

John L. McGuirk: Okay.

Billy Hajek: Any other questions for me?

John L. McGuirk: No, I think we're good. Anybody? No. I don't think I have any issue with the house design, or not really the design, what they're doing to the house. I do want to see the garage remain in the back corner of the property. That's how I feel.

James H. McMullan: I kind of echo Billy's concern with the garage. Having a garage with access to the street from one side and then having glass doors and awnings and stuff on the pool side, it just tells me that it's going to be used for something other than a garage. That's my concern.

John L. McGuirk: Anybody else have any? Anybody in the audience like to speak? Please.

Allen Robinson: Hi, my name is Allen Robinson.

John L. McGuirk: Gabby will swear you in.

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

Allen Robinson: Allen Robinson, 82 Beaver Street, New York, New York.

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

Allen Robinson: Yes.

Gabrielle McKay: Thank you.

John L. McGuirk: Go ahead, Allen.

Allen Robinson: Hi. Sorry. I just wanted to speak a little bit to the program of the garage. So, the client... The reason that the client is building this garage and not keeping the existing garage

is that they actually have two nice cars that they want to store here. Um, to kind of speak to the awnings and the large glass doors that face out to the yard, that was kind of done so that in their back yard it didn't look like it was a garage. We were trying to make that as attractive as possible. So, when you're sitting on the rear terrace or when you're using the swimming pool, that building looks a little bit nicer.

John L. McGuirk: Okay. Thank you.

John L. McGuirk: Board members, any questions or concerns?

Shahab Karmely: Just with the operations of the garage. So, I guess you're driving in one car at a time. But if both cars are parked, you have to pull out the first one to be able to pull out the second one, right? Am I reading this correctly?

Allen Robinson: Yes.

Shahab Karmely: It's stacked back to back? Like this one is a one is a collector Sunday car and the other one is a regular.

Jason Nower, Broadcaster: Will you be able to speak at the podium? Just for the record. Thank you very much.

John L. McGuirk: Thank you. Sorry about that.

Allen Robinson: That's okay. Sure. Yes. They're both collector cars. One is a Defender, and another is a Porsche that the client owns.

Shahab Karmely: So, you're pulling in and pulling out and there's no turnaround?

Allen Robinson: No, no. And it's because they store their cars now. And so by building this larger garage they can just store the cars.

Shahab Karmely: And how does it work with the present garage with a driveway? Same thing? They have to go... So, you're going in and backing out?

Allen Robinson: Yes.

Shahab Karmely: So, no change to the driveway, no change to operations, just the shape of the building moved up?

Allen Robinson: Exactly.

Shahab Karmely: And has the adjoining neighbor had any objections? Because the structure is now moving closer to their line of sight.

John L. McGuirk: I think the we're trying to keep... The Village has been trying to keep the garages in the back for years. That's kind of the object here. They don't want them.

James H. McMullan: And we have no letters in opposition or support?

John L. McGuirk: No. Thank you. Okay. Thanks, Allen. Any questions? Concerns?

James H. McMullan: Nope.

John L. McGuirk: Motion to close the hearing.

James H. McMullan: So moved.

John L. McGuirk: Second?

Abigail FitzSimons: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Thank you all. A motion to close the meeting.

James H. McMullan: So moved.

John L. McGuirk: Second, please.

Abigail FitzSimons: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

John L. McGuirk: Thank you all.

**RE-NOTICE OF
HEARING
PLEASE NOTE
LOCATION
CHANGE**

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Incorporated Village of East Hampton will hold a public meeting at the Emergency Services Building, 1 Cedar Street, East Hampton, New York, on Friday, August 9, 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 Stanley De Jongh Osborne and Virginia Osborne, SCTM#301-3-8-4, for Area Variances from Chapter 278, Zoning, to make alterations to an existing residence that exceeds allowable gross floor area and to construct a detached garage. A 1,059 square foot variance is requested from Section 278-3 A. (13) (a) to make alterations to a preexisting nonconforming residence containing 4,496 square feet of gross floor area where the maximum permitted gross floor area is 3,436 square feet. A 7.5 foot variance is requested from Section 278-3 A. (5) (b) to construct a detached garage 7.5 feet from a side yard lot line where the required side yard setback is 15 feet. The subject property is 24,369 square feet in area and is located at 27 Hunting Lane in Residence District R-40 and the Hunting Lane Historic District. This project is classified as a Type II Action in accordance with SEQR and requires review by the Village Design Review Board.

Application of Richard A. Shilowich Living Trust, SCTM#301-1-1-28, for Area Variances from

Chapter 278, Zoning, to construct additions to an existing residence that exceeds allowable gross floor area. A 754 square foot variance is requested from Section 278-3 A. (13) (a) to construct a 105 square foot addition resulting in a residence containing 2,608 square feet of gross floor area where the maximum permitted gross floor area is 1,854 square feet and the legally preexisting gross floor area is 2,503 square feet. A 303 square foot variance is required from Section 278-3 A. (9) (a) to permit 2,511 square feet of coverage where the maximum permitted coverage is 2,208 square feet and the legally preexisting coverage is 2,601 square feet. The subject property is 8,540 square feet in area and is located at 31 McGuirk Street in

Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Sophia Hudson, SCTM#301-13-13-4, in accordance with Section 278-7 B. (1) of the Zoning Code, requests to appeal the Building Inspectors interpretation that the renovation and reconstruction of a residence that is legally preexisting and nonconforming in Gross Floor Area and Coverage requires variances from the provisions contained in Section 278-3 A. (9) (a) and Section 278-3 A. (13) (a) and in the alternative is requesting a 707 square foot variance from Section 278-3 A. (13) (a) to make alterations resulting in a residence containing 4,701 square feet of gross floor area where the maximum permitted gross floor area is 3,994 square feet and the legally preexisting gross floor area is 4,852 square feet. The subject property is 29,449 square feet in area, is located at 15 Drew Lane and is in the Residence District R-160. The 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: July 26, 2024

By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals, Inc.
Village of East Hampton
4-2/153

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 9/27/24
TIME: 11:00AM

Gabrielle McKay