

**Zoning Board of Appeals
July 12, 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
- Joseph B. Rose, Member
- Andrew Baris, Member
- Abigail FitzSimons, Alternate
- Shahab Karmely, Alternate
- Gabrielle McKay, Village Deputy Clerk
- Tim Hill, Esq., Village Attorney
- Bill Hajek, Village Planner
- Tom Preiato, Village Principal Building Inspector
- Jonathon Tarbet, Esq., Representative for Ethelyn Atha Chase and Daphne Rowe – 15 Jones Road
- Shannen McCaffrey, Representative for Whitehouse Partners LP – 95 Egypt Lane
- Marc Goldfarb, Property Owner of 95 Egypt Lane
- Jeffrey Bragman, Esq., Representative of 99 Egypt Lane

Those Absent Were:

- Philip O’Connell, Member

John L. McGuirk: Good morning, and welcome to the Village of East Hampton Zoning Board of Appeals meeting for Friday, July 12th, 2024. This will be the last meeting at LTV Studios, and we'd like to thank LTV for hosting us one more time.

M I N U T E S

John L. McGuirk: We have the minutes from June 14th, 2024, and June 21st, 2024. May I have a motion?

Joseph B. Rose: So moved.

John L. McGuirk: Second?

James H. McMullan: Second.

John L. McGuirk: All in favor?

Board in Unison: Aye.

DECISION ITEM

The Dunemere Lane Trust – 43 Dunemere Lane – SCTM#301-9-4-5

John L. McGuirk: We have three determinations today the entire files are available at Village Hall, if you'd like to review them.

John L. McGuirk: In the application of The Dunemere Lane Trust, 43 Dunemere Lane, SCTM#301-9-4-5 for Area Variances to legalize the construction of a generator and an A/C condenser unit is granted. May I have a motion?

James H. McMullan: So moved.

John L. McGuirk: Second?

Andrew Baris: 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: Mr. Rose?

Joseph B. Rose: Yes.

Gabrielle McKay: Mr. Baris?

Andrew Baris: Yes.

DECISION ITEM

JHMB Beach Realty – 12 Borden Lane – SCTM#301-8-15-6

John L. McGuirk: In the application of JHMB Beach Realty, 12 Borden Lane, SCTM#301-8-15-6 for an Area Variance to construct an addition to a residence exceeding the allowable gross floor area is granted. May I have a motion?

James H. McMullan: So moved.

John L. McGuirk: Second?

Andrew Baris: Second.

John L. McGuirk: Gabby, can you poll the Board, please?

Gabrielle McKay: Mr. McGuirk?

John L. McGuirk: Yes.

Gabrielle McKay: Mr. McMullan?

James H. McMullan: Yes.

Gabrielle McKay: Mr. Rose?

Joseph B. Rose: Yes.

Gabrielle McKay: Mr. Baris?

Andrew Baris: Yes.

DECISION ITEM

21 Spaeth Lane, LLC – 21 Spaeth Lane – SCTM#301-10-1-26

John L. McGuirk: In the application of 21 Spaeth Lane, LLC, 21 Spaeth Lane, SCTM#301-10-1-26 for an Area Variance to legalize a sculpture on a concrete base constructed within the front yard setbacks is granted. May I have a motion?

Joseph B. Rose: So moved.

John L. McGuirk: Second?

Andrew Baris: 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: Mr. Rose?

Joseph B. Rose: Yes.

Gabrielle McKay: Mr. Baris?

Andrew Baris: Yes.

ADJOURNMENTS

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

Sophia Hudson – 15 Drew Lane – SCTM#301-13-13-4

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

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

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

John L. McGuirk: We have several adjournments today. Hunting Hospitality LLC, Sophia Hudson, Abraham M. Dweck and Robert Levine, Beach House Realty LLC, and Guild Hall of East Hampton. They'll be adjourned to August 9th, 2024, and we have continued hearings now.

CONTINUED HEARING

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

Gabrielle McKay: Do you want me to say who's sitting on this?

John L. McGuirk: Yes, please.

Gabrielle McKay: So, for 15 Jones Road, we have Mr. McGuirk, Mr. McMullan, Mr. Rose and Mr. Barris.

John L. McGuirk: Mr. Tarbet.

Jonathon Tarbet, Esq.: Hi. Jon Tarbet for the applicant. I was here last month for these wetland pool variances. And at the time, the Board had asked me to reconsider and try to come up some mitigation for the pool variances. So, we were able to propose to relocate the septic system,

which is currently 61ft from the wetland. We got it right up in the southeast corner, which we were able to make it 178ft from the wetlands. So, we were able to triple the. So, we would propose to relocate, remove the existing non-IA system and build a new IA system three times further from the wetland than the existing septic system as a mitigation for the pool variances. The other concern was whether it would be potentially visible from the street. So, we proposed a six-foot-high privet hedge to screen it, so the way this would work would be that they would put the pool in on the way out, they would do the septic system and then put the screening in. That's what we came back to you with.

John L. McGuirk: Thank you. Does anybody have any issues?

Joseph B. Rose: There's a question that was raised by the neighbor. So, the proposed pool is completely within the side yard setback?

Jonathon Tarbet, Esq.: It does. It meets...Yeah.

Joseph B. Rose: So, it's just the wetland?

Jonathon Tarbet, Esq.: Just the wetland variance, yeah.

Joseph B. Rose: No further questions.

John L. McGuirk: Okay. 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: Thank you.

CONTINUED HEARING

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

John L. McGuirk: We have Nancy Kane Testamentary Trust, 29 Dayton Lane. I don't think anybody's here for that, but he did send in a revised site plan.

Gabrielle McKay: Do you want me to say again who's sitting?

John L. McGuirk: That'd be great.

Gabrielle McKay: So, on 29 Dayton Lane, we have Mr. McGuirk, Mr. McMullan, Mr. Rose and Mr. Baris.

John L. McGuirk: Thank you.

Bill Hajek: Mr. Kane submitted a revised survey. It reduced the size of the patio pursuant to the Board's request. It reduced the amount of coverage as well. And I think it was a reduction of six feet of patio is what was requested, and that's what the survey reflects. Any questions?

John L. McGuirk: I don't have any. Board members?

James H. McMullan: Nope.

John L. McGuirk: Okay.

James H. McMullan: I appreciate the applicant listening to the Board and accommodating us.

John L. McGuirk: Thank you. 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: All right, so we have the new hearing for the day.

ORIGINAL HEARING

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

Gabrielle McKay: Application of Whitehouse Partners LP, SCTM#301-4-10-3, for Variances from Chapter 278, Zoning, and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to construct a patio addition and to modify a prior Zoning Board condition prohibiting the construction of a railing on the second story of the residence. A Wetlands Permit is requested in accordance with Sections 163-3 and 163-7 and variances of 72 feet and 66 feet are required from Section 278-3 A. (8) to construct a patio 78 feet from wetlands and to construct a railing onto the second story of a residence 84 feet from wetlands where the required setbacks are 150 feet. The applicant requests to modify a prior Zoning Board determination to permit the construction of a railing on a portion to the flat roof area. The subject property is 27,830 square feet in area and is located at 95 Egypt Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

John L. McGuirk: Is the applicant present?

Shannen McCaffrey: Good morning, Shannen McCaffrey, Due East Planning. We're here this morning to discuss 95 Egypt Lane. The applicant is requesting relief to construct a 36 square foot deck addition to the existing first floor deck.

Gabrielle McKay: Hi Shannen. I just need to swear you in.

Shannen McCaffrey: Oh, sorry. Yes, right.

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

Shannen McCaffrey: Shannen McCaffrey, Due East Planning, 15 Toilsome Lane, Suite 3, East Hampton, New York, 11937.

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

Shannen McCaffrey: Yes.

Gabrielle McKay: Thank you.

Shannen McCaffrey: The proposal has been designed to be minimal in size and will have no adverse impact on the character of the neighborhood or nearby properties. There also will be no adverse impacts to the environment, as the deck will not be encroaching closer to the wetlands than any existing improvements on the parcel. This is also not a substantial variance request due to the minor scale of the decking. The vicinity of the wetlands to this property leads the applicant to no other option other than to request variances to make improvements to the existing dwelling. The applicant is also requesting to modify a prior ZBA condition that prohibits the construction of a railing on the southern second story, flat roofed area. Since the ZBA application, the property has changed ownership to the applicant seeking this request. They are requesting this modification for aesthetic purposes. There is a northern roof deck that mirrors the location of this flat roofed area, and when looking at the dwelling from the rear of the house, it looks unbalanced. The applicant is also proposing the railing to be constructed out of wood post and cable rails, that way it will not cause a visual defect to any of the neighbors and the railing will blend into the existing dwelling. The property line is also very well vegetated. Construction of the railing will not have a negative impact on the environment or neighborhood. The vicinity of wetlands is the only reason the construction of a railing on this property is required. Typically, it would be just a building permit, and the railing will have no impact on the wetlands as it's being placed on existing hardened areas. This is a minor improvement and does not increase the intensity of any use on the dwelling or the property.

John L. McGuirk: And Shannen, can I ask you a question? There's no egress to the...

Shannen McCaffrey: It's just a window. There's no door at that area of the house. It's currently a home office.

James H. McMullan: I also have a question. The rallying on the opposite side, that one is a wood post with wood rails. Is there a reason why you're switching materials?

Shannen McCaffrey: They're actually going to be changing the railing out to the wood post and cable rails to have them be balanced on both sides. But, um, since that one's already approved to change the design of it, we didn't need a variance.

John L. McGuirk: Is there any decking on the back roof?

Shannen McCaffrey: It's still the mahogany.

John L. McGuirk: I think if we give you the rails, I'd like to see the mahogany taken out. So, you can't use it as a deck.

Shannen McCaffrey: I do have... The homeowners are here, so, I would like to discuss that with them.

John L. McGuirk: Board members?

Joseph B. Rose: I would concur with that. When did the property owner acquire the property?

Marc Goldfarb: 2 years ago, but we just moved in.

John L. McGuirk: Okay.

Andrew Baris: So, I would also... Removing the deck and making sure there's no egress to the roof. If it's just for aesthetic purposes, that's one thing.

Gabrielle McKay: I just have to swear you in.

Marc Goldfarb: Yes, please.

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

Marc Goldfarb: Mark Goldfarb, 95 Egypt Lane.

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

Marc Goldfarb: I do. When we purchased the house, there was a mahogany deck there. We would not personally be in favor of removing the mahogany deck, if that, you know, isn't necessary. Obviously, we'll adhere with whatever the decision of the Board and the, you know, is. But, uh, it seems to be a both incremental expenses to remove it and also would reduce the character of the view out the window to not have a, you know, a nice floor there. It's still a window. We don't intend to use it as a deck. But, um, you know, we wouldn't be in favor of incurring the incremental expense of taking out a mahogany floor that was expensive to put in.

John L. McGuirk: Thank you, Board members. Any comments on this?

Shahab Karmely: What is the access presently to?

Marc Goldfarb: I'm sorry, I didn't hear you.

Shahab Karmely: How do you access that deck presently? Is it through a window? The mahogany deck, how do you access it?

Marc Goldfarb: Um, yeah. The only way to... It's literally just a roof off of a window. It's the only access to the deck. I mean, we have photographs, if that would be helpful to the Board.

Joseph B. Rose: If you can submit them for the record, that would be useful.

Shannen McCaffrey: (Shannen McCaffrey provided the photographs to the Board) So, if you look at Figure 2, you can see how the dwelling is very unbalanced. It just looks a bit lopsided. And then Figure 3 on the second page will show you how the property line is very well vegetated. And you can see from the northern second story deck, it's nice to have that cohesive decking from both north and south flat areas, visually.

John L. McGuirk: Let me just see if there's anybody else in the audience who'd like to speak on this. Jeff.

Jeffrey Bragman, Esq.: Good morning, Board members, Mr. Chairman. My name is Jeff Bragman. I'm here for Robert Caruso, who's the nearest neighbor whose house is at 99 Egypt Lane. And some of the circumstances of the two properties should be considered, I think, before the Board considers a conclusion on this case, and that is that the south side of the existing house, the applicant's property, is only about 16-17ft from the property line. It actually may be a little closer because there was a boundary line agreement that the neighbors came up with some years ago, but the south side of the building that was the accessory building, is shown to be only about 2.6 to 1.8 feet from the property line. So, the buildings are extremely close together. And if you read the survey, it appears that the Caruso house is off of his own property line by 0.1 feet, 12in and 1.4ft, 17in. And I think that's why they, somewhere along the line, they had a boundary line agreement to adjust the boundary line, but it doesn't change the relationship between the two houses. And that makes the issue of the intrusiveness of the deck quite relevant to your considerations. There were two prior Zoning Board Decisions on the case that are relevant to the issue that you're looking at today. In June of 2011, the former owner of the property came in and wanted... There was an existing house, a small house, with a detached building that was it had residential use and they were both pre-existing non-conforming. So, he came in and wanted to demolish the existing house, put a new house in with a pool and decking, sanitary system, but maintain the detached dwelling unit where it was. It had a garage, a bedroom, bath and sitting room. Very extensive relief was required to put what's there today onto the property. Landscaping was going to be only 28ft from the wetland instead of 125ft. Almost, you know, 100-foot variance. The house, pool and deck ranged from 71ft to 73ft, where 150ft were required, about roughly half the setback and the sanitary system was 140ft instead of 240ft... 200ft, I'm sorry. And there were drainage structures also very close to the wetlands, 67ft instead

of 200ft. Well, what happened is they were building the new house. They had to come back to the Zoning Board just a year later in 2012 and the reason was that in the original decision, the only alteration to the accessory dwelling that was permitted was to hook it up to the septic system. The contractor on his own, apparently, or together with the clients, I'm not sure how it happened, decided that the that building was in such bad shape that he gutted it, took out all the insides and when the Code Enforcement came by, they said, wait a minute, that that might be an alteration. And if it's an alteration rather than maintenance, it requires a Special Permit, and it triggered a different square footage calculation. So, the case, just one year later, came back to the Zoning Board to consider it. And, um, so the Board was charged with considering whether or not the changes to the building were maintenance or whether they were an alteration under the statute. And in the course of deciding that, the Board examined the mahogany decking that had been put down on the right-hand side of the house, the southern side of the house. Now, the plans for that mahogany decking indicated that it was a deck. However, during the first application, because the neighbor, Mr. Caruso, came to the Board and said, hey, this is a very intrusive location for me, they withdrew the request for the deck. And in the second application that I just referred to, the one that came in a year later where they were considering the mahogany and what it meant, and they were also considering what was going on with the accessory building, they repeated the representation that it would not be used as a deck, that it would never be used as a deck. So, the second application also included a request for an interpretation. Is the mahogany decking a deck? What's going on with it? Um, and I want to note for the record that what the Board did with the building is they decided that it was maintenance. They let the applicant declare that it was just maintenance, that it wasn't an alteration. That... Although... In doing that, it didn't need the Special Permit that would have been required. However, if you add the square footage of the accessory dwelling into the principal gross square footage, it exceeded the maximum gross square footage. The Village had enacted a maximum gross square footage law in the interim. So, what I'm saying is that the owner got another break. Basically, they allowed it to... They said well, we'll call it maintenance. We're not going to pay attention to the fact that you're now over the gross square footage. And I point this out to you because it's a very constrained lot. It's very long and narrow, it's got a lot of wetlands and it's received a lot of relief. And the house is already bigger than what would be permitted under the law. So, they then address the issue of what is the decking? And basically, at that time, the applicant said we'll never use it as a deck, it's only an aesthetic feature. And we'd like to keep the wood in, similar to the argument that you heard from the owner today. So, the Zoning Board of Appeals determined that because it had no door to access it and no railing around it, the Board finds it's not usable as a deck, shall not be used as a deck and is not a deck. And common sense suggests that the two conditions that the Board imposed a pretty pragmatic way to avoid any kind of enforcement issues. Because if you don't have the access to... The access is a little trickier because our understanding is that those windows are fairly large. It's a, you know, this is an upscale house. It's got very large windows. So, it's conceivable, somebody could open a window and step onto the deck. But without a railing it can't be used as a deck. So, in in your last decision, the Board was pretty cautious and imposed two conditions that make it pretty, you know, lock it up pretty tightly, that it can't be used as a deck. And I think takes enforcement off the table. So, getting to the current application, there are two decks we're talking about. They want another 36 square foot deck on the ground floor for an outdoor kitchen, which would extend the deck toward the property line closer to my client's house. And that requires variances from the wetland setbacks. And then they want the railing, also, the railing on the second deck, which they're saying is an

aesthetic adjustment, which also requires a variance from the same wetland setbacks. And I'm not going to stand here and tell you that the Earth is going to collapse, or the wetland is going to die because of these two small structures, but they're not without impact. First of all, the deck on the ground floor, the 36 square foot for the kitchen, does extend closer to the property line in a situation where the houses are right on top of each other, and there is a lot of visibility between the two houses. I was there on the property just, you know, days ago. And it's highly visible. Also, the ground floor deck, which adds another impervious structure to the property and as the Board probably knows, the policies of Chapter 163, Wetland Protection, are largely effectuated by setbacks. That's really the most important part of the protection of a wetland, because you keep runoff from hitting the wetland, you control stormwater and flooding impacts. So, even though this is only a 36 square foot deck on the ground floor, it's closer to my client's house. It invites an intrusive use because if there's a kitchen there and you're barbecuing, you're going to have a lot of activity. People will be having drinks and chatting. And this is an unusual situation. They're that close. You can really, I mean see right... You can see it. And it also on my client's property, it's another small property. That's where this pool and decking is. Um, so I don't think you can blithely say there's no impact here because it's so small, especially when you look at what's already been given to the property. This property has received an enormous amount of relief, which, not saying was inappropriate, but it's had the benefit of a lot of relief already. It's got a really nice sized pool deck. I don't really see why. I would suggest, let me say it a little differently... I would suggest that it's quite possible for the owners to purchase a slightly smaller barbecue and put it on the existing pool deck. And I know that they have some seating on the pool deck, but that's what a pool deck is partially for. Also, it would prevent the runoff and the adding of impervious surface, which is something to think about when they're this close to the wetland and when they've gotten the extent of relief that they already have gotten the second-floor fencing or railing that they want to install, also is not a benign change. I'm not sure that the desire for a balance in the view of the southern of the... I guess it wouldn't be the southern, it would be the western elevation of the building is particularly persuasive. I mean, I've looked at the western elevation and it's frankly the argument that, you know, it needs to be symmetrical. Seems to me to be... I would suggest as a rather fine point that it doesn't, let's just say, it doesn't draw your eye to a major problem in the house on the western elevation. On the other hand, I've prepared a mockup, which I'll give to the Board of what a deck would look like. And I want to say before I give this to you, this is not to mention, it's just lines on paper, but it gives you an idea of what can be seen from my client's property on the southern side of the building. So, I'll hand it out to, I guess, the Clerk and she can distribute it. (Provided photo submission to Clerk) That area is...

John L. McGuirk: Board members, any comments regarding, we'll say, the proposed outdoor kitchen area? Anybody?

Jeffrey Bragman, Esq.: May I continue?

John L. McGuirk: Go ahead.

Jeffrey Bragman, Esq.: I'm not going to be a lot longer, but I do have another one other important point to make. Um, so again, this is not a scale drawing, I'm not purporting to say that's what it's going to look like because the materials are different. But that view is quite

readily seen from my client's property. This area where the deck is, looms over the property and it's intrusive, which is why back in 2011, the neighbors came in and said, don't let them put a deck there, and it's why the owner agreed to withdraw the proposal for a deck. I want to... I know I've taken a little bit more of your time, but I want to also say that it's... Both of these issues seem to be self-created problems and readily resolvable by other means. Um, also, I want to just talk about a procedural point, and that is that under New York State Law 7-7(12) of the New York State Village Law, re-hearings on prior decisions are not granted as of right. You can't just walk into the Zoning Board and say, I want you to re-hear a prior decision. Prior decisions are required in order for a re-hearing on a prior decision to be granted. All ZBA members present at a Board meeting must consider, unanimously, must consider the question, and unanimously vote in favor of a re-hearing. A unanimous vote is required. It's obvious... This is obviously a procedural rule, sort of a conservative, as a lawyer, I would say it's a conservative rule to make your decisions stick so that they can't readily be, you know, changed with changing Boards. And the second thing is, if a unanimous vote occurs for the Board to reconsider the prior interpretation, then the re-hearing has to be noticed as a re-hearing. And at the re noticed hearing a unanimous vote has to be taken in favor of changing the prior interpretation. Now, I know that procedure has not been followed here, and I just want to make a couple comments and then I'm out. I know I've imposed on your time. This application is not factually distinguishable from the facts that were before the Board in 2012, when it was looking at the mahogany decking. It's really the same situation. There hasn't been any substantial change in circumstances here other than it's a new owner who's in privity of contract with the prior owner. They bought it from the prior owner, absent some facts that make it distinguishable or some substantial change in circumstances. I would urge the Board not to grant a re-hearing. And if you consider a re-hearing, not to grant a change to the prior interpretation, there was nothing wrong with it. It was a strong decision. It had two guardrails that make sure that you'll never have to enforce or, you know, check up on the neighbor. We don't... You don't have to have the neighbor looking to see if there's activity up there. And of course, the more important of the two, uh, guardrails, forgive the pun, is the absence of any railing on it, because if there's no railing on it, people are not going to go on it. And I would suggest that keeping it that way is best for the Village, because it doesn't raise any issues of future enforcement. I would also say to the Board that, um, it... The applicants in no way have established that they meet the requirements, uh, for obtaining a uh, re-decision on a prior interpretation, because there has been no material change, in fact, and no change in circumstances, and it is very intrusive, among other things. Not only have they got a lot of relief, not only is the house larger than they would have been entitled to get, but it's extremely intrusive. I'm not blaming them for it, it's just the way the lots are set up. If you visited the site, you'll see right away how close the activity is and how potentially intrusive it is on my client's property. Thank you.

John L. McGuirk: Thank you. Board members?

Joseph B. Rose: Obviously, we refer to counsel on the question about the notice hearing issue, which we can...

John L. McGuirk: We'll leave the hearing open.

Joseph B. Rose: Does the applicant have any comments they want to make in response?

James H. McMullan: Can I just say one other thing? I noticed too; the photos here show the bench that wraps around the decking, and it doesn't match the survey. So, the survey should be brought up to date. This bench that's here is not what's shown on the photo. And if this photo is current, then the survey should be brought up to speed as well.

Shannen McCaffrey: There has been no changes to the decking. I don't think the bench is shown exactly on the surveys. I mean on the deck. I think the readability might be a little confusing because of the hatch area of where the proposed outdoor kitchen is matches what is there and so, they'll be removing part of the bench.

James H. McMullan: This bench here that comes along the backside of the property closest to the wetlands isn't shown on the.

Shannen McCaffrey: Because it's on top of the decking.

James H. McMullan: Okay. But he shows the decking here with the bench as well.

Shannen McCaffrey: Can I come up to look at your survey? (Shannen Approaches the Board)

James H. McMullan: Yeah. So, he shows the bench here, and then it stops, and it doesn't show it here. I just think we have to have everything. If we're dealing with this, it should be correct.

John L. McGuirk: Thank you. So, we're going to keep this hearing open until next month. Obviously, we have the question of the procedural.

Tim Hill, Esq.: Yeah, I mean, it might be helpful to ask a question or two at this point.

John L. McGuirk: Okay. Well, I don't think I have any issue with the outdoor kitchen. And I've said my... If you want the railing up top, you got to take the mahogany decking out. That's my opinion.

Joseph B. Rose: Do you want to ask a question?

Tim Hill, Esq.: I just want to ask the applicant, you heard the argument regarding re-hearing. Did you have a position on that issue?

Shannen McCaffrey: I will have to... I would consult our counsel to see what they believe. If we need to do a re-hearing or if we can continue as we were.

Tim Hill, Esq.: I would say the issue there is not so much whether there's a change in circumstances, but whether the relief sought previously is identical to the relief sought at this time.

Marc Goldfarb: If I may, and I don't profess to be a land use attorney. Um, but my layperson's reading of the decision, the issue that the gentleman was discussing with respect to the railing is not, in fact, the decision that was made by the Board at the time. The decision was whether or not

the renovations to the pre-existing cottage were substantial enough to require, uh, you know, a new permit or some other... This was, I guess, in my parlance, sort of dicta that was, you know, thrown in as, as I understand it, part of an accommodation with the next-door neighbor. Um, but it is not, in fact, the focus of the applicant's application, nor was it a focus of the Board's decision in that regard. So, I don't know all the issues about the re-hearing, and we'll defer to counsel on that. But I'm not sure to what extent the fact that, you know, that wasn't, in fact, what was before the Board at that time is relevant. Um, if I may and I realize we've imposed on your time quite extensively here, I would like to respond to a couple of things that I heard that are not accurate. Um, with respect to the outdoor kitchen, first of all, it does not extend closer to the next-door neighbor's property. It extends west by three feet, so the existing deck would move west and probably actually isn't even going to be a full three feet, but let's call it three feet. Um, it does not extend, uh, south at all, number one. Number two, the area is actually quite heavily vegetated, and you cannot see through their hedges, their trees, you cannot see through from the ground level. I won't dispute the gentleman's discussion about the visibility of the upper deck, because you can see it from, you know, other areas in the neighborhood. Um, but the deck on the ground level is not visible from next door. Uh, the fact that an outdoor kitchen would go there, there's already a portable grill there now. We've had no complaints from the neighbor. I'm not sure why that's relevant. That's number one. Number two, I guess I would say, and again, it's still on the outdoor deck, as you can see from the photographs, the grandfathered cottage is in between that proposed extension and the wetlands as is. Maybe, I don't know how much that is, but another 20ft of deck. I mean, it's... There are any number of hardened structures that are still in between the wetlands and where the proposed addition would go. Um, so it's hard for me to fathom how that would have any further impact on the wetlands. Um, it's also an above ground decking, so I'm not sure what relevance any of that has. Um, with respect to the railing on the upper roof, I want to stress again, because I heard it a number of times, we are not requesting to change the character of that space, whatever you want to call it, a roof, a deck, whatever it is. Um, it is a window. I'm not sure what incremental detriment will be imposed on the gentleman's client by putting a railing up. The roof itself is there, the house is there. I understand that the next-door neighbor who we've had, you know, tried to have communication with. I understand that he doesn't like it. Um, but it's a house in the Village. You know, we're not out in the farms where houses are spaced, you know, at great distances. This is a house in the Village. We are close to our neighbors, you know, the house is visible. I can't do anything about that. We bought the house. It had been approved by this Board. I'm not sure what incremental detriment of putting a railing up. The one additional fact I'd like you to hear is that we have daughters in their 20s, and if we're fortunate enough, someday we hope to have grandchildren. And my concern, frankly, is also a safety issue. I mean, I do think from an aesthetic purpose, you can see from the back of the house that there is a very substantial imbalance, from an aesthetic purpose. But in addition to the aesthetics, I also think about safety. And if, God forbid, a child was to be able to get out a window and get out onto that deck, I would like there to be a railing there to ensure that nobody falls off of that roof deck, whatever you want to call it. But we are not requesting a change in the circumstance of that particular area of the house.

John L. McGuirk: Thank you. So, we'll keep this open to August 9th.

Marc Goldfarb: Yes.

John L. McGuirk: Okay. Thanks.

Marc Goldfarb: Thank you very much.

John L. McGuirk: 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.

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, July 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 Abraham M. Dweck and Robert Levine, SCTM#301-8-7-33.16, for Area Variances from Chapter 278, Zoning, to make alterations and construct additions to an existing residence and construct accessory structures. A 127 square foot variance is requested from Section 278-3 A. (13) (a) to construct additions resulting in a residence containing 3,164 square feet of gross floor area where the maximum permitted gross floor area is 3,037 square feet. Variances of 15.4 feet, 14.5 feet, 10.3 feet and 10 feet are required from Section 278-3 A. (3) to construct additions and make alterations to a residence located 19.6 feet from the front yard lot line, construct covered and uncovered porches 15.5 feet and 24.7 feet from the front yard lot line and construct a cellar egress approximately 25 feet from the front yard lot line where the required front yard setbacks are 35 feet. The subject property is 20,378 square feet in area and is located at 19 Mill Hill Lane 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 pre-existing 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). 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.

Application of Whitehouse Partners, LP, SCTM#301-4-10-3, for Variances from Chapter 278, Zoning, and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to construct a patio addition and to modify a prior Zoning Board condition prohibiting the construction of a railing on the second story of the residence. A Wetlands Permit is requested in accordance with Sections 163-3 and 163-7 and variances of 72 feet and 66 feet are required from Section 278-3 A. (8) to construct a patio 78 feet from wetlands and to construct a railing onto the second story of a residence 84 feet from wetlands where the required setbacks are 150 feet. The applicant requests to modify a prior Zoning Board determination to permit the construction of a railing on a portion to the flat roof area. The subject property is 27,830 square feet in area and is located at 95 Egypt Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Beach House Realty, LLC, SCTM#301-13-9-4, for Area Variances from Chapter 278, Zoning, to construct a detached garage, a tennis court and to relocate a generator. A 2,435 square foot variance is requested from Section 278-3 A. (9) (a) to permit 21,036 square feet of coverage where the maximum permitted coverage is 18,601 square

feet. An 11.3-foot variance is requested from Section 278-3 A. (5) (b) to construct a detached garage 8.7 feet from a side yard lot line where the required side yard setback is 20 feet. A 25-foot variance is requested from Section 278-3 A. (5) (a) to construct a tennis court 50 feet from a front yard lot line where the required front yard setback is 75 feet. A 15-foot variance is required from Section 278-3 A. (5) (b) to relocate

a generator 5 feet from a side yard lot line where the required side yard setback is 20 feet when the zoning board previously granted relief to permit the generator with sound attenuation fencing to be located within the required side yard setback. The subject property is 93,006 square feet in area and is located at 19 Lee Avenue in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Application of Guild Hall of East Hampton, Inc. SCTM#301-8-5-3 for a Special Permit in accordance with Section 278-7 D. and Variances in accordance with Chapter 278, Zoning, are required to erect two (2) detached ground signs. A 7 square foot coverage variance is requested from Section 278-3 A. (9) (a) for the erection of the ground signs where a prior Zoning Board determination granted 33,325 square feet of coverage and 9,170 square feet is the maximum coverage permitted by zoning. Variances of 5.45 square feet, 6 square feet and 27.45 square feet are required from Section 278-4 E. (1) to permit an event totem sign to contain 21.45 square feet of area and a ground mounted building identification sign to contain 22 square feet in area where one detached ground sign may not exceed 16 square feet. Variances are requested from Section 278-4 D. (4) and (7) to permit an internally illuminated event totem where inter-

nally illuminated signs are prohibited, and advertising structures used to attract the attention of the public are prohibited outdoors. The property is 45,848 square feet in size and is located at 158 Main Street. The property is located in Residence District R-80 and the Main Street Historic District. This project requires approval of the Design Review Board and 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: June 21, 2024
By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals, Inc. Village of East Hampton 51-2/249

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 8/12/24
TIME: 1:01 PM

Gabrielle McKay