

17374

**Zoning Board of Appeals  
September 13, 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  
Joseph B. Rose, Member  
Andrew Baris, Member  
Abigail FitzSimons, Member  
Shahab Karmely, Alternate  
Joseph D'Arco, Alternate  
Gabrielle McKay, Deputy Village Clerk  
Timothy Hill, Esq., Village Attorney  
Bill Hajek, Village Planner  
Tom Preiato, Village Principal Building Inspector  
Martha Reichert, Esq., Representative for Huntting Hospitality LLC – 94 Main Street  
Denise Schoen, Esq., Representative for Whitehouse Partners LP – 95 Egypt Lane  
Jeffrey Bragman, Esq., Representative for 99 Egypt Lane, neighbor of 95 Egypt Lane  
Marc Goldfarb, Esq., Property Owner of 95 Egypt Lane  
Laurie Wiltshire, Representative for Abraham M. Dweck and Robert Levine – 19 Mill Hill Lane  
Abraham Dweck, Property Owner of 19 Mill Hill Lane  
Linda Margolin, Esq., Representative for Maxamus, LLC – 54 Georgica Close Road  
Leonard Ackerman, Esq., Esq., Representative for Maxamus, LLC – 54 Georgica Close Road  
Richard A. Shilowich, Property owner and representative for Richard A. Shilowich Living Trust  
– 31 McGuirk Street  
Jason Nower, LTV Broadcaster  
Jody Gambino, LTV Broadcaster

\*\*\*\*\*

**John L. McGuirk:** Welcome to the Zoning Board of Appeals meeting for Friday, September 13th and we'd like to first welcome Joseph D'Arco, our new Alternate of the Zoning Board.

**M I N U T E S**  
**August 9, 2024**

**John L. McGuirk:** We have the minutes of August 9th, 2024. May I have a motion?

**James H. McMullan:** So moved.

**John L. McGuirk:** Second, please.

**Andrew Baris:** Second.

**John L. McGuirk:** Okay.

section of the code. But, you know, perhaps and again, the reason I distributed the stipulation of settlement here is that with the Hedges Inn litigation, one of the things that the parties sought to do in settling it was also confirm the application of this particular section of the code and how it would be interpreted with respect to a swimming pool at the Hedges Inn. So, what I'd like to read to you is...it is stipulated and agreed that the Hedges Inn may construct a swimming pool, subject to receipt of a building permit, provided dimensional requirements of the zoning code can be met, or in the alternative, a variance is granted for same. No use variance shall be required for construction of a pool, as the pool is deemed an appurtenant accessory use of the inn. It is further stipulated that any proposed pool will not be prohibited from obtaining a variance by the provisions of Village Code 278-7C(2)(d)[3], concerning the introduction of outdoor uses on pre-existing commercial properties located in residential districts. I would say that this is clear legislative intent and guidance from the Village Board of Trustees that confirms that a swimming pool, even at a historic inn such as the Hedges Inn, in the Village, is an appurtenant accessory and that any proposed pool, and in this case a spa and its associated patio, would not be prohibited from applying for and obtaining variances pursuant to Village Code 278-7C(2)(d)[3]. Um, our conclusion in our memorandum of law is that there is no basis to treat this application by the Hunting Inn any differently than a potential proposed application by the Hedges Inn pursuant to the stipulation, which again, was meant to provide clarity and confirmation. Um, you know, it's axiomatic and has been held by the Court of Appeals, that it's arbitrary and capricious when a Zoning Board neither adheres to its prior precedent nor provides a reasoning for reaching a different result on essentially the same facts. Um, and so based on the foregoing, we would like to submit that there is nothing in the Village Code that would prevent this Board from considering the variance...the area variances for the proposed swimming pool, spa and its associated patio as an appurtenant accessory to the pre-existing non-conforming in use. Um, unless the Board has any other questions, I would like to thank them for their time. This has been two and a half years of hearings and plan revisions, in which we have substantially reduced not only the number of variances needed, but their magnitude, to the point where all we need are lot coverage variances for the contested pool and swimming pool and patio. And again, I respectfully thank you for your time and request that the record be closed today.

**John L. McGuirk:** Thank you, Martha. Tim, would you like to address?

**Timothy Hill, Esq.:** Sure. So, yes, to confirm the memo of law that was submitted, was at our behest, in order to flesh out and address these issues and, um, we greatly appreciate receiving that and all the points are very well presented. In collusion, however, you know, upon close consideration of this provision of the Town Code, the application of its plain language simply does not confer authority for this Board to grant those portions of this application that would involve the introduction of an outdoor use to a pre-existing, non-conforming use, commercial, in a residential zone. That's what aspects of this application do seek and that takes this Board's normal discretionary ability to relax code provisions away from it and is simply a bar to its authority to grant that. Um, I understand your point about the stipulation in the Hedges Inn litigation. Ultimately, that's not an expression of this Board. That is the resolution of a litigation where parties have different cost benefit analysis. It doesn't establish a precedent in this Board's decision making powers. So, for those reasons, it's simply an application of the plain language of 7C(2)(d)[3] to the scope of this application. And there's just those parts of it that, um, are beyond this Board's authority to grant.

**John L. McGuirk:** Thank you. So, we just got the EAF from Billy yesterday.

**Martha Reichert, Esq.:** Okay.

**John L. McGuirk:** So, we're going to review it. We're going to close the meeting. We will review the EAF. We'll probably pass the EAF next meeting, October 11th. We will close the hearing and have a determination for you.

**Joseph B. Rose:** Quick question, Tim, you referred to the Town code, but it's the Village Code.

**Timothy Hill, Esq.:** Village Code, yes.

**John L. McGuirk:** Thanks, Joe. Okay. Thank you.

**Martha Reichert, Esq.:** Thank you very much.

**John L. McGuirk:** So, we have the next continued hearing for Whitehouse partners, LP, 95 Egypt Lane. Do you want me to read this now?

**Timothy Hill, Esq.:** I think so, yeah.

**John L. McGuirk:** Okay. Go ahead, Martha.

**Martha Reichert, Esq.:** Did you make a motion to close the hearing?

**John L. McGuirk:** No, we're going to... We'll do that next meeting. Thank you.

# CONTINUED HEARING

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

**John L. McGuirk:** Okay. So, I'm going to read this. The application of Whitehouse Partners, LP 95 Egypt Lane. Insofar as the application seeks, in part, modification of a prior determination of this Board, so much of today's hearing that is addressed to that part, to the relief sought by this application, may be deemed and rehearing pursuant to the New York Village Law, Section 7-712, subsection 12, provided that a motion is held, such rehearing is made and unanimously approved. Do I have a motion?

**James H. McMullan:** So moved.

**John L. McGuirk:** Second?

**Abigail FitzSimons:** 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.

**Gabrielle McKay:** Ms. FitzSimons.

**Abigail FitzSimons:** Yes.

**John L. McGuirk:** All right. So, we do have unanimous vote. Thank you.

**Denise Schoen, Esq.:** Thank you, Mr. Chairman. My name is Denise Schoen. I'm an attorney at the Adam Miller Group in Bridgehampton, New York. Here today on behalf of the applicants, Marc and Carolyn Goldfarb. Marc is in the audience with me today. And also, we're here today with our planner, Shannen McCaffrey from Due East Planning. Just first, I would like to hand out a few materials that I think will help during my presentation. First is just a summary of my comments, second is a photo montage, the one that you see there in a smaller version (Handed out materials, which were then made part of the record). It's also on this Board too, that's good for LTV. So, at the last meeting, I was not present. I hadn't been retained yet. Um, this matter was before you in August and the application is for a wetlands permit and setback variances for a railing to enclose an overhang and for a modest 83 square foot deck on the rear of the house to accommodate. Right now, they have their...sort of their kitchen equipment out there, their barbecue grill. So, that's what it would be used for. So, that's what we're here for today, is those two requests. Um, when I reviewed that hearing, I noticed that there was a conversation that took place after the planning...after the Zoning Board had closed the hearing. So, there was a member from the audience who came up and approached.... I'm not sure it might have been the Vice-Chair or the Chair and...

**John L. McGuirk:** Chair was not there. Okay. Don't...

**Denise Schoen, Esq.:** I won't. I'll let you... I'll...

**John L. McGuirk:** Leave that alone.

**Denise Schoen, Esq.:** Okay. I'll let the record speak for...

**John L. McGuirk:** People were just sitting at the table when the audience member came up.

**Denise Schoen, Esq.:** I know there's...

**John L. McGuirk:** They didn't engage the audience member.

**Denise Schoen, Esq.:** I understand that.

**John L. McGuirk:** I just want to make that clear.

**Denise Schoen, Esq.:** No disrespect to the Board whatsoever, but if I don't bring this up here and put it into the record, I can't use it in the future if I need to in a court of law. So, it's my

obligation as a zealous advocate for my client to make sure that I do get it on the record. I understand that the Village did nothing wrong at all. There were two prior decisions on this application on this property. The first was in July of 2011. That was essentially to replace the existing house and also to construct the porch, the deck, and the swimming pool. Um, there was vociferous objection to that from the neighbor at 99 Egypt, um, during that application and also a subsequent application in September of 2012, where the Board was asked to determine whether the refurbishment of the garage actually constituted maintenance or reconstruction, because that had to do with whether we were over GFA or not. The Board determined that we were not over on GFA, and that the rehabilitation was in fact rehabilitation and not a tear down and rebuild of that structure. During that hearing, there was also a question about whether the overhang was going to be used as a deck or just a roof. Um, it was made clear by the applicant's attorney that there was no intent for them to use it as a deck. They have a deck on the other side of the residence, that is, gives them more than sufficient room for outdoor space on the second floor. Um, there's actually tables and chairs out there right now. That's where they use... That's what they use as their second story outdoor space. This overhang actually exists at the top of the stairway. There's sort of a stairwell at the top, um, that's an open space, it's not a room and our client has put his desk in there. So, the desk sits on a wall that faces 99 Egypt. And if you look at... Is it okay if I point at something on the board?

**John L. McGuirk:** Yes.

**Denise Schoen, Esq.:** Outside the window from the desk at the top there. So, as you can see, we do have...

**Jason Nower, LTV Broadcaster:** Would you do me a favor and just speak next to the microphone so that way we have everything on record? I'd appreciate that. Thank you very much. No problem.

**Denise Schoen, Esq.:** So, the top picture here is an image of the window that he looks out of when he sits at his desk. You'll see that he can see a little bit of the swimming pool next door, but not much. We have substantial evergreen vegetation between these two properties. Not only do we have evergreen trees, but we also have very large canopy trees, a stockade fence, and also two accessory structures, one that's owned by our client and one that's owned by the property owner next door. So, there's very little view from that room into the backyard of 99. If you look at these images here, you'll see that we were able to obtain on Corcoran's website an image from the neighbor's property into our property and you'll see the same kind of vegetation. So, sorry it's hard to hold this. So, you'll get a clear image from these two pictures that when standing in the backyard of 99 and looking over at my client's property at 95, what you're looking at is trees, trees, a stockade fence, and two accessory structures that are back to back. Um, I know there was a picture submitted at the last meeting, and it looks like it was taken sort of between the trees, you know, you can see the limbs sort of encroaching into the picture. It's not a clear view from 99 to 95. It's really well screened. There was a discussion at the last meeting about res judicata, and it sounds like maybe you've already made a decision that res judicata applies here. I don't believe it does and I'll explain why. In the last decision in 2012, the issue that the Board was facing was whether utilizing mahogany instead of asphalt shingles, I suppose, converted that space from a deck into...from a roof into a deck and in considering whether or not it was, the

Board took into consideration several factors. So, the Board said, you know, we've heard from the applicant that they're not going to use it as a deck, they're not proposing to put a door there, they're putting a window and they're not proposing any railings. So, these were the factors that they took into consideration in determining that using mahogany was not going to convert the space from a roof to a deck. Those were not things that our applicant had an opportunity to fairly and adequately litigate at that point and so, when that happens and the court goes sort of off the direct path, we call that dicta and that was, I think, what my client might have mentioned at the last meeting. So, we've got a lot of Latin phrases here that exist in the law. Dicta happens to be one of them and dicta refers to statements that are made by the Board and a decision that are not essential to the decision but offered as guidance or commentary. For today's application, again, we're seeking a freshwater wetland, special permit and setback variances for a 36 square foot deck addition 78ft from the wetlands and a safety railing around a 97 square foot second story roof overhang on the southerly side of the dwelling, 84ft from the edge of the wetlands. It should be noted that while the public notice did state that we were trying to modify the former approval, that's really not the purpose of the application. The purpose of the application is to seek a new approval and to bring out issues and concerns that were not raised during that prior proceeding. To avoid any confusion, we've provided the Board with several pictures. As I said, I just want to point out in terms of the configuration of the residence in the last determination from 2012, there seemed to be some confusion about where the master bedroom was. The master bedroom is actually on the north side, which is where the deck is. And this, as I said, is that landing on the top of the stairs on the south on the... did I do that backwards...I did that right...on the southerly side. This is where the deck is, I'm sorry, this is where the desk is inside that landing and that's the view out over the overhang into the backyard. So what we're seeking from you today is a variance from the wetlands code to install those railings for both safety purposes, esthetic purposes, symmetry... I know those issues were brought out at the last meeting, so I won't, um, I won't, uh, inundate the Board with more comments on that. But that is the rationale behind needing or wanting the railing on that side as well. We don't believe that there's any rational basis to assume that because the overhang would be covered in something other than wood, that automatically it turns into a roof. I think what you would want would be something like architectural shingles, which might not be the best view or vantage point for the client in looking into his backyard, and it doesn't change the use of that area. We're not proposing to use it as a deck. We won't use it as a deck. There's a window that accesses that space, and clearly if someone wanted to, they could jump out, I guess, or climb out and then jump off the overhang. That wouldn't be a very good idea, um, but we'd like to prevent it from happening. There's another final Latin phrase that I'll leave you with in zoning. It's... For anyone who speaks Latin, I apologize for my pronunciation, but it's "sic utere tuo ut alienum non laedas" and it translates to use your own property as to not harm others and I would submit that requesting a railing around this very small overhang, which the neighbor cannot see from his side of the property, is respectfully using the property in a way that will not harm the neighbor. I am available for any questions.

**John L. McGuirk:** Just who is sitting on this application, just so we're clear.

**Gabrielle McKay:** So we have Mr. McGuirk, Mr. McMullan, Mr. Rose, Mr. Baris, Miss FitzSimons and Mr. Karmely.

**John L. McGuirk:** Questions?

**James H. McMullan:** My only comment would be... Um, like before I said I didn't have a problem with the patio area and the barbecue. When it comes to the deck and stuff, I understand asking for the railing to make some symmetry to the house and everything. So, I don't have a problem with that, but I think if we keep calling it a safety railing and stuff, that just seems like it's going to...somebody's going to be going out there. So, in an effort to avoid that, I would say that I don't have a problem as long as we don't put decking up there.

**John L. McGuirk:** Got it. Andy?

**Andrew Baris:** I don't really have any comments. I kind of feel similar to Jimmy, where if it's truly not going to be having people out there, then it's less of an issue for me. So...

**Abigail FitzSimons:** I agree.

**John L. McGuirk:** Mr. Rose?

**Joseph B. Rose:** No comments.

**John L. McGuirk:** I know... We'll... We're just having some comments. We'll come to you. We know you're back there, Jeff. So, just while she's here. You're okay. Um, okay. So, thank you.

**Denise Schoen, Esq.:** Okay. Thank you.

**John L. McGuirk:** Mr. Bragman.

**Jeffrey Bragman, Esq.:** I didn't get the paper, so I didn't get a chance to look at this. Uh, Jeff Bragman for the neighbor to the south, Robert Caruso. I'm going to avoid speaking Latin to you. Um, we've been asking for submissions this whole week, didn't get anything, and this is the first I've seen it and since it involves views, I'd at least like to keep the record open so that my client can look it over carefully and explain some of the photos that I've seen him take, because...and I've been on the site as well and you can...it is not a blocked view, you can see that protruding part of the house and I'd like to have an opportunity to submit that and, uh, you know, challenge this document, which I'm only seeing for the first time today. Um, I think it's important to think about the context of this application, because separated out from the history of the case, it sounds like a tempest in a teacup, and it is not. Um, this additional railing is intrusive. It's in an intrusive location, partly because of the way the properties are arranged. The Caruso property is like at points 1.2ft away or 17in away from the property line. It's so close that they had to do a boundary line agreement. They're very cheek by jowl. Um, but it's worth noting... I was... I'm pleased at least to hear that you took a vote, I guess, to get a unanimous vote under Village Law Section 7-12. It also requires that the application be re-noticed, which I don't believe it was. So, I think that's an omission that is of something that is required under Village Law Section 7-12.

**John L. McGuirk:** We'll leave that to council.

**Jeffrey Bragman, Esq.:** In the first application, the house was a tear down, and the only remaining structure on site was this little outbuilding that had a bedroom and basically was habitable and in getting approval for that, the applicant asked for six variances and so in terms of the number of variances, it's a fairly substantial number of variances. I don't think you see a lot of cases coming in with a request for six variances and in addition, the size of the variances was quite substantial: landscaping 28ft from a wetland versus 125ft, the house 73ft, the pool 77ft, the decks 71ft, which is roughly half of the setback that's required, the sanitary system was 60ft shy of the requirement, and the drainage structures were only 67ft from the wetland, where 200ft was required. So, this house got substantial relief to be built in the first place. In the second application, what happened is... In the first application, Mr. Caruso came in and objected to a deck that they wanted to put up in this location and in light of that objection, the applicant withdrew the application for the deck. Then what happened is it turned out that instead of merely attaching the outbuilding to the house, they substantially gutted the structure and when code enforcement came by, they cited him for it and said this could be....they didn't cite.... He said this could be a violation of zoning because it's not merely an alteration, it looks like it's, uh, you know, a new enough structure that it would require a special permit, and I might add that in the first application where they granted all the variances, they went through your special permit factors as well and those factors include any impacts to neighboring properties. So, what happened is they returned to the Zoning Board in the second application and part of... The reason that it was significant was that in the interim, the Village had changed its law on gross square footage and changed it so that, uh, accessory dwelling units like this had to be added into the gross square footage of the principal structure and if that was the case and if it was so altered that it was a new structure, the house was over what was then permitted in the gross floor area. So, they came back in and asked for an interpretation on two things. One was an alteration that's acceptable that maintains the building as what it was, or does it make it a new building that would have to comply with the new statute? So, that was one of the two things the Board considered and the other... The other item that the Board considered was whether or not putting mahogany on the roof was a deck, because obviously it's an attractive material. It sort of invites use and so, there were two aspects to the interpretation and during the hearing, the applicant repeated the representation that would never be used as a deck and maintained that posture because Mr. Caruso was still objecting to it. What the Board did is they... The board held as one of the two interpretations that it made that placing the mahogany on the roof without a railing on it, and without a doorway going into it, or a way to access it, was not a deck and I think it's worth, I brought the decision with me for you, um, and I'll give you both the decision that was in 2011 and the subsequent decision, but I want to read the language of the subsequent decision in 2012. And that is the conclusion of the board. Without using any Latin, what the Board said in plain English was there being no door through which an access to the flat area next to the master bedroom on the south side of the second floor of the dwelling, and no railing around it, the Board finds that the open area is not usable, as a deck shall not be usable as a deck and is not therefore a deck. So, I suppose a lawyer can get up and tell you that when the Board makes a finding based on the fact that there's no railing around it, that that's somehow extraneous to the decision, but I would suggest that's not a very persuasive argument and this language, I think this Latin that's supposed to dazzle you with the knowledge of lawyers, that this is dicta is just simply untrue. Just if you want to digress into a point that lawyers find interesting, but Board members may be less so. Dicta is when a court makes a comment that's extraneous to the issue that it's considering and isn't necessary to make the decision and the interesting reason for this distinction is that the

law wants boards to focus narrowly on the issues, because that is a way that tends to support the decisions they make, because there's not a lot of extraneous stuff going on that people can point to and object to. So, they ask courts and boards to narrow their focus to what the facts are and I would suggest to you that when you read this decision, there's no question that the finding that there was no railing around this space is central to the finding of the Board. That it was not a deck, would never be a deck and could not be a deck and it's... The reason I talk about the context of this application is because there's a reason that the Village Law requires you to have a unanimous vote to reopen and reconsider a prior decision. Again, it's a little like the policy behind talking about what's necessary in a decision and what's not necessary in a decision. I think the state legislature recognized that it's not good practice if decisions can change over time and when new boards come in, when the facts remain the same and it's clear that the facts are exactly the same in this application as they were 12 years ago in 2012. I would suggest that the reason that you had to take a unanimous vote is because the legislature wants to discourage this kind of reconsideration, because we all do better when zoning board decisions are consistent and remain consistent when the essential facts remain the same and in fact, the case law on when you should act and when you should not act is clear that if there is no material difference between the original application and the and the new application, in this case the one that's coming in 12 years later, then there's no basis to change your earlier decision and that's why both the vote to open and consider and the vote that you take has to be unanimous, they both have to be unanimous. The fact of the matter is that this argument that it's a new application because now we want to make it symmetrical, we want to make it look symmetrical, frankly, is a pretext. It doesn't go to the substance of the decision that the prior Board made 12 years ago and it doesn't change the facts that the prior Board 12 years ago considered that the absence of a railing was going to discourage and eliminate the possibility that it be used as a deck. So, I would suggest that, you know, when you look at this thing, not narrowly on, oh, this is just a railing and it's just x distance from the wetland. This is a house that's got a tremendous amount of relief from the get-go. The applicant's bought it with the knowledge of what was there and what was permitted. They obviously did title work on it. They're charged with knowing what the zoning on the house is. And there's no... This idea that it has to be symmetrical is not really...it's sort of a distinction without a difference. The real issue here is that the planking, the mahogany planking it invited use. Um, The original owner knew that and made a commitment that it would never be used as a deck and repeated that commitment in the application a year later and the house and the buildings have already gotten very substantial relief. It's a larger house than could then have been permitted under your gross floor area limitations. So, this is just one more bite of the apple 12 years later. Without the Latin, there's no material difference between the two applications. This is exactly the same scenario. They're just trying to nibble away, piece by piece at the protections that a prior Board, equally wise, equally concerned about the character of the Village, put in to make sure there would never be a debt, and I would suggest that it not be changed. I would like time to look at this carefully, talk to my client, submit some further pictures to you. I can do that in writing. I will say that when I...

**John L. McGuirk:** Can we get that prior to the meeting, though? I mean, keeping this meeting open longer... Not last minute.

**Jeffrey Bragman, Esq.:** Yeah, I can do that. Well, I want to tell you... I'm telling you now that we started calling the Village on Monday to ask for documents. We called every single day this

week and I think council knew that I was on the case, and I didn't even get a copy today, so. We all, you know, that happens, but. Okay.

**John L. McGuirk:** Thank you.

**Jeffrey Bragman, Esq.:** I just want to make one other point, and that is that I am familiar with the room arrangement. There's a study at the top of the stairs, and, uh, there is a view that I don't think they're referring to that shows a more exposed portion of the Caruso backyard than what they're suggesting in their photos. So, we'll show you some pictures of that. That's what I have for you. Thank you.

**John L. McGuirk:** Thank you.

**Jeffrey Bragman, Esq.:** I appreciate your time, and I apologize for the interruption. I rarely have to do that.

**John L. McGuirk:** You're not a potted plant. Thank you. Can we move on to the new hearings for today?

**Joseph B. Rose:** I'll make a comment for the record. I don't find the case for the railing compelling in terms of the architectural symmetry or the need for it. I think it's, uh... The Board has acted on this, and while I think I have no problem hearing the application, I think the neighbors' comments are relevant and I don't think there's a compelling case architecturally or from a safety need, given that this is... There's no access, there's no legal access to this roof, in any event, and I don't see the architectural rationale.

**John L. McGuirk:** Thank you, Mr. Rose. Okay. Any more comments? We'll keep it open till October 11th. Thank you. New hearings.

**Gabrielle McKay:** Mr. McGuirk.

**John L. McGuirk:** Would you feel the need to comment? All right, Denise.

**Denise Schoen, Esq.:** Thank you. Denise Schoen, again for the applicant. Um, I just wanted to point out a few things first. I know Mr. Bragman talked a lot about the 12 years ago and what was approved back then. I just want to make clear that that was a prior owner. This is a new owner. Um, they've owned the property for the last three years and I also want to point out that the definition that he gave for dicta is incorrect. Um, and I know your attorney can just look that up, so, I just wanted to clarify that. Um, but what the Board was saying at the time was that they were concluding that the overhang was not going to be used as a deck, but the factors that they considered were a commentary, they weren't actually necessary for the determination. The determination was based on the fact that the applicant said that they were not going to use that portion of the property as a deck, and that remains the same today. They don't need the space as a deck. It's just an overhang that provides a view to the outdoor space from the landing. I would also just keep in the Board's mind that, you know, to the application before you requires you to

weigh the benefit to the applicant versus the detriment to the neighbor. And here, based on the visual evidence, I would propose that there's no actual detriment to the neighbor.

**John L. McGuirk:** Thank you. Thank you.

**Joseph B. Rose:** Apropos of that, I understand your point about the detriment to the neighbor. What's the what is the benefit to the applicant? That I don't understand.

**Denise Schoen, Esq.:** That I'll explain. So, when you look out the backyard from this overhang, what we don't want to see is asphalt shingles here and that's really the only other material that we could come up with that would not be wood, but the rest of the house is covered in wood, so, it would be very strange to have one roof on the whole building be asphalt, just to make sure that they don't do something they said they wouldn't do, which is use it as a deck. They just... They really don't need to use it as a deck. It's only 93ft<sup>2</sup>. They have a much larger deck on the other side that actually has, um, fixtures on it, you know, tables and chairs, that's what they use.

**Joseph B. Rose:** So, understanding the aesthetics of the covering.

**Denise Schoen, Esq.:** Yes.

**Joseph B. Rose:** What's the rationale for the railing.

**Denise Schoen, Esq.:** Oh safety, definite safety.

**Joseph B. Rose:** So I go back to my previous comment.

**Denise Schoen, Esq.:** All I'm saying is that... I've been on an ambulance for 25 years. I've seen people fall off of these structures. It's not a pretty situation. Um, and I, you know, I keep my windows locked in my house, so my kids don't crawl out of them, but it happens. It does. It's not something to take lightly.

**Joseph B. Rose:** So the... Not to argue, I'm just stating for the record, my observation. Creating a wooden deck and then create something of an attractive nuisance that you're having a railing to then protect against someone going out onto a deck that shouldn't...it's not supposed to be a deck in the first place for which there's no access.

**Denise Schoen, Esq.:** An attractive nuisance that was created by a former owner that we want to make sure that our kids don't bear the brunt of.

**Jody Gambino, LTV Broadcaster:** Mic check. I can't hear you guys. For some reason I just lost audio one second. The audio is back.

**Jason Nower, LTV Broadcaster:** Yeah, Jody. I toggled to our backup; you can go for it. We'll fix it in a bit.

**Jody Gambino, LTV Broadcaster:** Copy. You're good to go.

**Marc Goldfarb, Esq.:** Again, Marc Goldfarb, for the record. I just wanted to clarify a couple of points. First of all, as counsel stated, the prior owner is the one who installed the mahogany flooring. We did not. Um, it would be, in our view, um, irrelevant and silly to require us to incur an expense to tear out mahogany flooring that, frankly, does look good from the vantage point of sitting in the study area, um, nor is it visible. The flooring certainly is not visible to anybody other than us. Um, so the idea that somehow the the surface of the floor is relevant to the neighbor is, frankly, hard to imagine. Um, secondly, it's my understanding that the principal issue before the Board here is the impact upon the wetlands. This is a freshwater wetlands permit, and I respectfully state that there is zero, no effect, whatsoever to the wetlands by placing a railing on a deck that already on a...excuse me, on an exposed roof area that already exists. Um, so the question that was raised about the benefit to the applicant, I want to be clear, and I mentioned this at the last hearing, our concern about a curious child somehow getting out of that window. Um, I do want to make it clear we do not intend to use this as a deck. We are not asking to change the character of this area to a deck. As council has stated, we have one. The additional reasons in addition to safety are number one, the aesthetics. When I'm sitting at the desk looking out of the window and number two, the aesthetics of when you're in the backyard. I think, as you can see from the pictures, the house does have an unbalanced appearance when looking at it from the backyard. Um, there is a railing on the...when facing the house from the back on the left side, the north side and all we're asking for is to place a railing on the right side. It could either be a matching railing or, as we have suggested to the neighbor, we would replace the existing railing on the north side with a...the most, excuse me, the least intrusive railing on the market, which is a cable railing that would simply have, you know, a couple of wood, very simple posts that match the house and we would do that on both sides if that were more acceptable to the neighbor. Um. And I guess the last thing I will say is it's quite clear, uh, from the history of this case, as well as what we apparently inherited, that the applicant is unhappy that this house was built in the first place and I understand that, but counsel for the for the neighbor has spent an awful lot of time explaining how many variances were granted, et cetera, all of which is completely irrelevant. That decision was made 12, 11, 13 years ago and then again 12 years ago. The house is built. The incremental decision that we are here to discuss is simply the putting of a railing around an exposed area that, to me at least, presents a safety issue, um, and it's simply that simple. You can't... There is no good view of that railing from the neighbor's property. I think the pictures make that clear from both sides. Um, and I'm... I'm frankly at a loss to understand why we're even here discussing this issue. With all due respect to everyone involved, um, I don't know why this was even an issue in the original hearings as to what the character of this area is, but it's just unclear to me why we're having a discussion about a simple safety railing. I thank the Board for its time.

**John L. McGuirk:** Thank you.

**Jeffrey Bragman, Esq.:** Mr. Chairman. I just want to hand you some documents.

**John L. McGuirk:** We already... We already have these.

**Jeffrey Bragman, Esq.:** Did I already give them?

**Gabrielle McKay:** They're in the original application. They're always submitted.

**Jeffrey Bragman, Esq.:** Well, then I have one...three words.

**Andrew Baris:** That's unlikely.

**Jeffrey Bragman, Esq.:** A child safety device can be put on that window very easily.

**Andrew Baris:** That's more than three.

**Jeffrey Bragman, Esq.:** For child safety.

**John L. McGuirk:** Thank you. Okay.

**Jeffrey Bragman, Esq.:** I rest.

**John L. McGuirk:** We'll continue this on October 11th. Thank you. Please, please get all the material together with each other if there's any. Please. Um, new hearings of the dates, please.

ORIGINAL HEARING

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

**Gabrielle McKay:** 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, to construct accessory structures and convert an existing garage to a pool house. 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. A 26.6 foot variance is requested from Section 278-3 A. (5) (c) to convert a portion of an existing garage into a pool house located 3.4 feet from a side yard lot line where the required side yard setback for a pool house is 30 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.

**Gabrielle McKay:** Um, and then I'll just state for the record who's sitting.

**John L. McGuirk:** Yes, please.

**Gabrielle McKay:** So, we have Mr. McGuirk, Mr. McMullan, Mr. Rose, Mr. Baris, Ms. FitzSimons.

**Laurie Wiltshire :** Hi, Lori Wiltshire, for Land Planning Services.

**John L. McGuirk:** Gabby, can you swear in Laurie, please.

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

**Laurie Wiltshire :** Laurie Wiltshire with offices at 231 Pantigo Road, East Hampton, New York.

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

**Laurie Wiltshire :** I do, thank you. Good morning. Good morning. So, the application is for variances necessary to construct additions to the existing residence, a basement egress, and to convert part of an existing garage to a pool house with plumbing. A small GFA variance of 127ft<sup>2</sup> is requested, along with four front yard setback variances. All of the requested variances are due to the location of the pre-existing non-conforming residence and garage on a lot that is only 20,000 and change in an R-40 zone. The house currently sits 19.6ft from the front yard line, and the garage is situated 3.4ft from the side property line. Granting the requested variances will not cause any change in the character of the neighborhood or produce a detriment to nearby properties. The finished house will be very much in keeping with the neighborhood, which contains some rather large houses when taking the lot areas into account. Submitted herewith are letters from owners of 15 Mill Hill, 23 Mill Hill and 1 Meadow Way, these are all immediate neighbors, both sides and across the street. They are all in favor of the application. Um, unfortunately, due to the location of the residence and garage, and because the property is substandard in size, there's no other way to achieve the benefits sought other than the requested variances. The proposed one story addition is in the only location possible, and the conversion of the small portion of an existing garage makes more sense than constructing a separate structure for a pool house. While some of the requested variances may be considered substantial, this is due strictly to the location of the existing structures and should not preclude the granting of the variances, for the proposed improvements are in keeping with the neighborhood and would have little or no impact on the nearby properties. There will be no adverse environmental impacts, and I/A OWTS has been approved by the Suffolk County Health Department, which is a major improvement over the existing septic system. The property is not in an environmentally sensitive area. Given the location of the existing residence, the alleged difficulty is not self-created as there is no alternative method to obtain the benefits sought without granting some relief. Variance has been granted to 15 Mill Hill Lane for similar front and side yard setback relief, as well as for GFA, also 43 Mill Hill for multiple lot line setbacks and GFA for construction of a swimming pool, and additions and alterations to the residence and an accessory building and at 78 Mill Hill, they got side and rear relief to allow pool equipment in an existing garage. I'm just going to submit copies of those determinations, along with a couple of photos. Um, based on the foregoing, we respectfully request the Board grant the relief, and I will say that when you see these photographs that the front yard is hedged and the side yard from where the garage is, it immediately abuts the neighbor's garage, which is also about three feet off the property line. So, it should have no impact whatsoever on the neighbor who's already issued their approval of the

application...support and my clients are here and would like to say a few words as well, but I will make myself available for questions.

**Joseph B. Rose:** Let's just review the math, please, in terms of the degree of additional variance at 100 and some odd feet of GFA?

**Laurie Wiltshire :** 127.

**Joseph B. Rose:** 127ft. That's... That is from that which is permitted as of right?

**Laurie Wiltshire :** Correct.

**Joseph B. Rose:** Or that's...

**Laurie Wiltshire :** That's over what's permitted by code. 127. That was a very small amount of GFA relief compared to other applications that we've been involved with in the Village.

**Abraham Dweck:** Thank you for your time. Um, my name is.... Oh. I'm sorry.

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

**Abraham Dweck:** Abraham Dweck, 19 Mill Hill Lane, East Hampton, New York, 11937.

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

**Abraham Dweck:** I do. Thank you. So, my name is Abraham Dweck. That's my husband, Robert Levine. Uh, we've lived on Mill Hill Lane for the last 12 years. We moved there from Bridgehampton because we wanted... When we had our children, we have twin girls, who are now 17, we wanted them to be part of this Village life and something we've really enjoyed. As they've gotten older, uh, friends, boyfriends, we need a space where we can accommodate, uh, their, you know, their friend group and their significant others. Um, at the same time, Robert and I have flexible work arrangements and would like to spend more time out here in East Hampton when our girls go off to college next year. So, uh, part of the request for the 123ft<sup>2</sup>...

**Laurie Wiltshire :** 127 ft<sup>2</sup>.

**Abraham Dweck:** ...was to accommodate an office space that we'd like to have so we could set up our offices out there. We do intend to, uh, move out here full time when our, uh, when we can and this has been a beautiful 12 years in the home, but the home needs a major renovation and now we decided it's time to do it. So, uh, we hope you'll entertain our variance request, and we appreciate you your time.

**John L. McGuirk:** Thank you. Does anybody in the audience have any questions? Nobody in the audience. Board members?

**James H. McMullan:** I have a couple questions, or comments. Um, I know in the past we've looked at these structures on these lanes, actually one just recently this past year, where the massing starts to become an issue. This one here, it is a rather small house right now and going with the two story front plate, building a second story over the projection of the entry. I just think that it's, um, it's going to become very marginal, especially seeing that it's closer to than the setbacks.

**Laurie Wiltshire:** Which structure are you talking about?

**James H. McMullan:** The whole house. The whole front façade of the house has now been raised to a saltbox look, and you've put a second story on your front entry from the existing. I don't have anything to say about the addition that's set back further.

**Laurie Wiltshire :** Right. Okay. Yes, sir. Yeah. He recognized that he said the second story over the existing foyer.

**John L. McGuirk:** Yes.

**Abraham Dweck:** It already exists.

**Laurie Wiltshire :** It already has a second story. It exists now. So, that structure.

**James H. McMullan:** Your existing elevations don't show that.

**Laurie Wiltshire :** Um, the photograph.

**John L. McGuirk:** Where are they?

**Andrew Baris:** There's a picture of the front yard and you can see the hedge and then right behind the hedge is the existing second story.

**James H. McMullan:** So, this here just shows a half-moon window.

**John L. McGuirk:** Is that second story usable at this point?

**Laurie Wiltshire :** Is it usable now? Yes, it is, currently. It's an office that they're trying to make a little larger.

**James H. McMullan:** Yeah. So, it shows here that it's just a gable thing where this is just a one story. So, this shows a single story plate...

**Laurie Wiltshire :** Are you saying that this right now is a second story office?

**James H. McMullan:** Right, so this is still getting larger.

**Laurie Wiltshire :** It is getting slightly larger.

**James H. McMullan:** The massing is getting larger. This first floor plate here, which faces the road, is now going up higher and becoming a much higher plate shown in this section.

**Laurie Wiltshire :** So, your concern is this.

**James H. McMullan:** Yes, and this plate. So, just the massing has gotten larger towards the front of the property and seeing that it's over its permitted front yard setback.

**Laurie Wiltshire :** But it is fully hedged as well.

**James H. McMullan:** Right.

**Laurie Wiltshire :** Which will eliminate some of that mess for sure.

**James H. McMullan:** Yeah. You're... Well, you're gonna...

**Joseph B. Rose:** You won't eliminate the massing. You're saying it'll mitigate the visual impact.

**Laurie Wiltshire :** Yes, along with the trees.

**James H. McMullan:** That's my only comment.

**Laurie Wiltshire :** So, the neighbor that wrote a letter in support is across the street.

**John L. McGuirk:** Neighbor letters are great, but they have nothing to do with the process.

**Abigail FitzSimons:** Actually, I had a similar question related to this second story dormer area above the door. Right now it's proposed for storage, according to the plans?

**Abraham Dweck:** No.

**Abigail FitzSimons:** Drawing A7.

**Laurie Wiltshire :** It does say proposed storage, yes it does, but you intend to keep it as an office? (Asking applicant) They intend to keep it as an office.

**Joseph B. Rose:** How much is... I apologize, but we have a whole lot of paper here. The degree of intrusion into... The pre-existing intrusion is into this front yard is how much?

**Laurie Wiltshire :** The existing is, also have that survey, right here, sorry, um. Presently it is 1906.

**Joseph B. Rose:** And what is required?

**Laurie Wiltshire :** In terms of relief?

**James H. McMullan:** What is the existing setback by code?

**Andrew Baris:** The existing setback is 19.6ft.

**James H. McMullan:** That's existing on there, but by code. What is the front yard setback?

**Laurie Wiltshire :** 35.

**James H. McMullan:** Thank you.

**Joseph B. Rose:** I understand Jimmy's point now, anyway.

**Laurie Wiltshire :** So, you're concerned about the squaring off of the roof? Not the little second story above the foyer.

**James H. McMullan:** Well, it's more of the impact it has on the neighborhood, as it is already encroaching on the front yard setbacks. Now you're making the massing much larger and becoming much more of an impact on the street. Um, so, if you have an existing setback of 35ft<sup>2</sup> that you're supposed to adhere to and you're at 19'6", you're over ten feet closer to the road than what the code requests and you're enlarging that massing on the second floor.

**Joseph B. Rose:** Increasing the degree of noncompliance.

**James H. McMullan:** Yes.

**Laurie Wiltshire :** Understood. And then the porches themselves, which are not in that, in that, um. So, your objections to the front of the house?

**James H. McMullan:** Yes.

**Laurie Wiltshire :** Not to anything else that's proposed here.

**James H. McMullan:** Yes, that is my concern.

**Joseph B. Rose:** I think that's a legitimate concern and point. And the challenge in these small properties and small lots where there's renovation being proposed and expansion to do so in a way that this Board permits to do so in a way that doesn't change the character of the area and the purpose for which the code is enacted.

**Andrew Baris:** We had a similar issue on Sherrill. It's a similar situation.

**James H. McMullan:** Yes.

**John L. McGuirk:** Anybody have any objections to anything else on the application?

**Laurie Wiltshire :** They were just pointing out that the additional height is only 2.5ft, and there's no pyramid relief required. They have seven foot ceilings right now in the second story, and they're just trying to make it another foot.

**John L. McGuirk:** What would you like to do? We can leave this open.

**Laurie Wiltshire :** I think what they'd like to do is address the architecture based on your comments. So, we would like to keep the hearing open and we will only be addressing the front façade, nothing else in our application.

**John L. McGuirk:** Thank you. That's right. Thank you. So, we will keep this open to October 11th.

**Laurie Wiltshire :** Okay. Great. Thank you.

**John L. McGuirk:** Thank you. Okay. We have the second hearing of the day.

ORIGINAL HEARING

Maxamus, LLC – 54 Georgica Close Road – SCTM# 301-7-3-7

**Gabrielle McKay:** Application of Maxamus, LLC, SCTM#301-7-3-7, for Modification of prior Zoning Board of Appeals determination that granting Variances from Chapter 278, Zoning and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to raze the existing residence and construct a new single-family residence. Applicant requests to modify the determination to allow the project be completed in two phases and to extend the permit for a period of five (5) years. The subject property is 97,110 square feet in area and is located at 54 Georgica Close Road in Residence District R-160. The property fronts on the Seabury Creek section of Georgica Pond and is located in FEMA Flood Zone AE. 10. This project is classified as a Type II Action in accordance with SEQR.

**John L. McGuirk:** Thank you. Ms. Margolin, can we have Billy just talk real first, please?

**Linda Margolin, Esq.:** Absolutely.

**Gabrielle McKay:** Mr. McGuirk, do you want me to just say who's sitting on this.

**John L. McGuirk:** Please.

**Gabrielle McKay:** So, sitting on Maximus LLC, 54 Georgia Road. Mr. McGuirk, Mr. McMullan, Mr. Rose, Mr. Baris, Ms. FitzSimons.

**John L. McGuirk:** Good morning, Billy. Good afternoon.

**Billy Hajek:** Chairman, members of the Board. Billy Hajek of the Village. I mean, this was an application that the Board reviewed and approved two... I think it was about two years ago, and the application was to demolish the existing house, carefully demolish it by dismantling it by

hand. It was a construction protocol approved using the existing foundation by making it FEMA compliant and then constructing a new house, a new modern house, on the exact foundation. They were going to use it carefully with like a CIP style or modular type construction. The crane was carefully placed. It sounds as though the applicant would request more time to decide what they want to build on the foundation. So, the request now is to ask for a phased application where they would dismantle the house, and the new protocol is consistent with the plan that was already approved and then allow them five years or whatever time is necessary to design and put a new house on top of the existing foundation. I suppose at the end of five years they would have to come back and ask for either an extension or deal with the foundation that's still in the ground. They have a... The only change is it looks like the driveway is slightly redesigned and the curb cut is being relocated, but it's...the driveway is outside of the required wetland setback. It's consistent with the DEC Permit that was issued.

**Joseph B. Rose:** When you say outside of the...

**Billy Hajek:** Yeah, sorry. Beyond the setback.

**John L. McGuirk:** Okay. Uh, anybody have any questions for Billy?

**James H. McMullan:** No.

**John L. McGuirk:** Go ahead.

**Joseph B. Rose:** So, it just is a... When we originally heard this, it was anticipated this would all be done as one piece. There would be... And did we see the design for the house that was...

**Billy Hajek:** Yeah. The Board approved the set of plans.

**Joseph B. Rose:** Now, this is a... My concern. It's a question. I don't want to see... If we're doing this. We approved something for a design to go on a foundation for an existing in a sensitive area. Five years to see with the dismantling of the house on a foundation with a hypothetical design to be proposed down the road.

**Billy Hajek:** I would like the applicant to answer.

**Joseph B. Rose:** I just want to make sure I understand it correctly.

**Billy Hajek:** I could be misunderstanding.

**Joseph B. Rose:** I just want to understand exactly what's being proposed.

**Billy Hajek:** Sure.

**John L. McGuirk:** And we... I think we want to make it consistent with the DEC five year permitting process, that's kind of really the gist of this, I think.

**Billy Hajek:** Would you like to clarify?

**Linda Margolin, Esq.:** Sure, yes. Good morning, Mr. McGuirk, members of the Board. Linda Margolin from Ackerman, Pachman, Brown, Goldstein, and Margolin. The intention here was to give the applicants more time to go ahead and build. The current building is deteriorating. They want to take it down, and because they want to phase it, they will backfill the foundation appropriately and landscape around it. And, um, in order to, um, get the one thing that they do need right now, which is some additional parking area, because they own the lot next door, which already has a house on it. They're going to put a driveway and small parking area in an area that is outside of the wetlands setback. Um, so, we're not asking for any additional relief beyond what was granted by this Board in 2022 and if the applicants ultimately decide that they want to do a different design for the house, they will have to come back to this Board. We're not asking you to approve God knows what going on at the same foundation. So, that's the scope of our application and we're asking to have it phased so that if something happens, the beneficial owners here are in their 80s, if something happens and in fact the property passes out of their ownership to someone else, the property won't be, um, in limbo with half the work completed and unable to obtain a certificate of Zoning Compliance or CO.

**James H. McMullan:** Thank you. One question. Um, so we did this two years ago, correct?

**Linda Margolin, Esq.:** Yes.

**James H. McMullan:** Um, are you looking to extend it...

**Joseph B. Rose:** I can tell you exactly what we're looking for.

**James H. McMullan:** ...to three more years?

**Linda Margolin, Esq.:** I can tell you exactly what we're looking for because since we made the application here, we got the DEC Permit and the DEC Permit, which we submitted to this Board, runs through August of 2028, so, we would like the same termination date.

**Joseph B. Rose:** So my question goes, and I think this isn't for the applicant but to Billy, in terms of the constraint of the operating with the existing foundation, which is material, as I understand it from reading, its material to the DEC Permit, and it was material to the approval of this Board in terms of the original application. That's correct?

**Billy Hajek:** Yes.

**Joseph B. Rose:** So, I just want to be very clear in this action. So, obviously someone has the right to apply potentially, that the constraint of operating with the existing foundation and the preservation of the existing foundation over the course of the five years that this is being granted for, is something that is not a game. This is not a come back and do a bait and switch, this is the constraint that is being...that this Board has acted on and will be expected to be approved pursuant to it.

**James H. McMullan:** Tim, I have a question for you. Um, with an application like this, we have an approval that has a deadline. Are we opening ourselves up to something where we give a five year extension to this, are we opening up the Board to more applications like this that could render us, but also, is it something that we do on a yearly term and have them come back each year?

**Timothy Hill, Esq.:** The ability to grant the extension is in the Board's power and discretion. I don't think it exposes you any more than consideration of anything else.

**James H. McMullan:** Thank you.

**Leonard Ackerman, Esq.:** Yeah, if I may, This request was prompted by the fact that it took over two years to get the DEC to approve this sensitive application. Over the course of that period, Millie and Arnie Glimcher, who were my contemporaries, um, we weren't sure how far they were willing to go with this project. They were very enthusiastic, but over time, they became very unhappy and uncomfortable with the fact that the DEC was taking so long. As you all know, as we get older, we're not so sure of our future. They just would like to be in a position to enjoy this lovely property which is adjacent to their home and at some point, in time, over the next period of time, in less than five years, they'll decide what they're going to do with the property. Meanwhile, they're going to enhance it aesthetically, they're going to make themselves comfortable with it and then we'll, you know, we'll will proceed. There's no game playing here at all.

**John L. McGuirk:** Thank you, Mr. Ackerman. Anybody have any questions?

**Leonard Ackerman, Esq.:** Thank you very much.

**John L. McGuirk:** 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.

#### ORIGINAL HEARING

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

**John L. McGuirk:** So, Mr. McMullan and I are recusing ourselves on the last application of the day.

**Gabrielle McKay:** 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.

**Richard A. Shilowich:** Good morning. Board.

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

**Richard A. Shilowich:** Richard A. Shilowich, 31 McGurk Street, East Hampton.

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

**Richard A. Shilowich:** Yes, I do.

**Gabrielle McKay:** Thank you. And then I'm just going to state who's sitting on the record. So, we have, Mr. Rose, Mr. Baris, Ms. FitzSimons, Mr. Karmely, and Mr. D'Arco.

**Richard A. Shilowich:** Okay. Good morning, Board.

**Joseph B. Rose:** Good morning.

**Richard A. Shilowich:** Thank you for your time. The application, I assume you've all seen the plans and read the memorandum of what the process was for us. This house, as it exists now, is pre-existing non-conforming that we know and for the record, this particular house, the way it sits with the C of O for everything I own, has never had a variance. So, everything we have done in the size of whatever's there was done by the old zoning. Um, so we had certain needs on the inside for our own personal reasons why we needed to move things around for, you know, the basement stairs and going up and down to the basement a million times a day because everything is in the basement because we don't have enough room in the house. So, we're taking away a room that exists in the house to create a bigger kitchen, to create a better mudroom space, to have more things be on the first floor and by doing so, we've lost sort of the den in the house. So, there is an existing, as you see from the plans, on the south side of the house, there is an existing mudroom that sticks out 12ft and so, the only way to really acquire a proper size den was to extend that room by... I think we could extend it six more feet. It's 105ft<sup>2</sup> is what we're going to remove from that existing structure, it isn't going to come any closer to the property line, and it's going to become 105ft<sup>2</sup> wider to accommodate a new den. Um, we were very careful to keep it as a one story addition. So, when you look at the two proposed front elevations, other than it gets two feet taller, it's I think it's 2 or 3ft, maybe it's three, you really don't see any difference from the front elevation. The only property that sees a difference in the width is 29 to the south, which my wife owns that property, we own that property. So, we're the only one that really notices the size width change and then just adding that little covered porch. Other than that, the front of the house, the height of the house, everything else remains untouched. There is... We have over

coverage by current zoning on the area coverage. By doing all this and removing parts and patios and other pavers and whatever, we will be reducing the coverage even with adding all this by 100ft<sup>2</sup>, I believe it is, or something like that. 100ft<sup>2</sup>, give or take 110ft<sup>2</sup>. We'll be reducing the coverage once this is all done. Um, I don't know what else I can say. Does anybody have any questions?

**Joseph B. Rose:** Just the GFA calculations as well?

**Richard A. Shilowich:** Yeah, they're on this one plan. The GFA and the proposed...and the coverage plans are both on that. So, it's going from 2503 to 2608. Oh, yes and we have 12 letters in the file for people that are fine with it, and we have no opposing neighbors.

**Joseph B. Rose:** Any questions?

**Andrew Baris:** I have no problem with this.

**Joseph B. Rose:** Questions? Comments? Any other speakers on this matter? Okay. Motion to close the hearing on this?

**Andrew Baris:** Second.

**Joseph B. Rose:** All in favor?

**Board in Unison:** Aye.

**Joseph B. Rose:** Okay. Thank you.

**Richard A. Shilowich:** Great. Thank you very much.

\*\*\*\*\*

**Joseph B. Rose:** Any other further business? There being none, a motion to close the meeting?

**Andrew Baris:** Motion to close the meeting.

**John L. McGuirk:** Thank you

**Abigail FitzSimons:** Second.

**Joseph B. Rose:** All in favor?

**Board in Unison:** Aye.

**Joseph B. Rose:** Meeting is closed.

# 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 Emergency Services Building, 1 Cedar Street, East Hampton, New York, on Friday, September 13, 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](http://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, to construct accessory structures and convert an existing garage to a pool house. 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. A 26.6 foot variance is requested from Section 278-3 A. (5) (c) to convert a portion of an existing garage into a pool house located 3.4 feet from a side

yard lot line where the required side yard setback for a pool house is 30 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 Maxamus, LLC, SCTM#301-7-3-7, for Modification of prior Zoning Board of Appeals determination that granting Variances from Chapter 278, Zoning and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to raze the existing residence and construct a new single-family residence. Applicant requests to modify the determination to allow the project be completed in two phases and to extend the permit for a period of five (5) years. The subject property is 97,110 square feet in area and is located at 54 Georgica Close Road in Residence District R-160. The property fronts on the Seabury Creek section of Georgica Pond and is located in FEMA Flood Zone AE. 10. 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: August 16, 2024  
By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals, Inc.  
Village of East Hampton  
7-2/122

FILED  
VILLAGE OF EAST HAMPTON, NY  
DATE: 10/16/24  
TIME: 9:50AM

*Kabriele McCarl*

