

Zoning Board of Appeals
November 13, 2020
11:00 a.m.
via Video-Conferencing and
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Those present were:

John L. McGuirk III, Chairman
James H. McMullan, Vice Chairman
Craig R. Humphrey, Member
Philip O'Connell, Member
Joseph Rose, Member
Andrew Baris, Alternate Member
Elizabeth Baldwin, Village Attorney
Billy Hajek, Village Planner
Richard A. Whalen, Attorney on behalf of Frederick A. Terry Jr.
Leonard I. Ackerman, Attorney on behalf of 7 West End Road LLC
Lee Weishar, Woods Hole Group on behalf of 7 West End Road LLC
Richard E. Warren, Inter-Science Research Associates on behalf of 7 West End
Road LLC
James Taylor, Architect on behalf of 7 West End Road LLC
Steve Maresca, S.L. Maresca Associates on behalf of 7 West End Road LLC
Katherine Maresca, S.L. Maresca Associates on behalf of 7 West End Road LLC
Robert Sullivan, Neighbor of 7 West End Road LLC
Jody Gambino, LTV Moderator
Pamela J. Bennett, Clerk

Mr. McGuirk: Welcome to the East Hampton Zoning Board meeting of Friday, November 13, 2020. First, I would like to thank Lys Marigold for her leadership and her wisdom over the past few years, she was our leader on the Zoning Board. I also would like to congratulate Mayor Larsen and the Village Trustees Christopher Minardi and Sandra Melendez.

MINUTES

Mr. McGuirk: First on the agenda we have the minutes from October 9, 2020, do I hear a motion?

Mr. Humphrey: So moved.

Mr. McGuirk: Do I hear a second?

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. McGuirk: We have three determinations, oh I forgot to introduce our new Board Members. We have three new Board Members, we have Jim McMullan, he is going to be the Vice Chair, we have Joe Rose, and we have Andy Baris is going to be an alternate. So welcome guys and thank you.

Mr. McMullan: Thank you.

Mr. Baris: Thanks.

Mr. Rose: An honor to serve.

Mr. McGuirk: I am not sitting on the Donald R. Mullen determination so Jim McMullan will take it over from here.

DETERMINATION

Donald R. Mullen Jr. – 67 Cross Highway – SCTM #301-5-2-12

Mr. McMullan: In the application of Donald R. Mullen Jr., I have reviewed the entire application as well as the record to date and will be part of the determination. In the application of Donald R. Mullen Jr., 67 Cross Highway, Suffolk County Tax Map number 301-5-2-12 to make alterations and construct additions to an existing residence is approved.

Ms. Bennett: Mr. O'Connell? Is Phil there?

Mr. O'Connell: Yes, I had it on mute, approved.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes, approved.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes, approved.

DETERMINATION

24 West End Road LLC – 24 West End Road – SCTM #301-15-3-5.1

Mr. McGuirk: Now we have the next determination which I will read. In the application of 24 West End Road LLC, 24 West End Road, Suffolk County Tax Map number 301-15-3-5.1 to remove Phragmites and replant with native plant stock is approved.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

DETERMINATION

Calvin Klein – 75 West End Road – SCTM #301-15-5-11.1

Mr. McGuirk: Then we have the next determination in the application of Calvin Klein, 75 West End Road, Suffolk County Tax Map number 301-15-5-11.1 to make alterations and additions to an existing single-family residence, redesign the driveway, construct accessory improvements, and install sanitary systems in approved.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

ADJOURNMENTS

Eric and Lori Blatstein – 211 Lily Pond Lane – SCTM #301-15-4-12
Gary M. Kravetz and Mariel Creo-Kravetz – 2 Baiting Hollow Road –
SCTM #301-8-10-29.3

c/o The Maidstone – Premises of Lexington Lounge LLC – 207 Main Street –
SCTM #301-8-7-30.4

Maidstone Club, Inc. – 95 Dunemere Lane – SCTM #301-9-4-11

Mr. McGuirk: Now we have the adjournments, I will just read them all at once, we have Blatstein at 211 Lily Pond Lane, January 8, 2021, we have Kravetz at 2 Baiting Hollow Road, December 11, 2020, we have The Maidstone, premises of the Lexington Lounge LLC, 207 Main Street to December 11, 2020, and we have the Maidstone Club at 95 Dunemere, December 11, 2020. Do I have a motion to approve that?

Mr. McMullan: I make a motion.

Mr. McGuirk: Do we need a motion to approve that?

Ms. Bennett: Cannot hear you Beth. She says yes.

Ms. Baldwin: Yes.

Mr. McGuirk: The motion is on the floor.

Mr. Rose: So moved.

Mr. McGuirk: Second?

Mr. Humphrey: Second.

Mr. McGuirk: All in favor?

Mr. Humphrey: Aye.

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

ORIGINAL HEARING

Frederick A. Terry, Jr. – 97 Briar Patch Road – SCTM #301-12-4-18.1

Mr. McGuirk: So first we have the application for Frederick A. Terry, Jr., I am going to recuse myself on this application so Jim McMullan will be leading us on this one.

Ms. Baldwin: And Andy will be a part of this?

Mr. McGuirk: Yes, I am sorry, so we are going to try to call these out as we have them now so I am off this one, Jim McMullan is on this one, Andy Baris is on this one, Joe Rose is on this one, Craig is on this one, and Phil is on this one.

Ms. Bennett: Shall I read the notice of hearing?

Mr. McGuirk: That would be great, thanks Pam.

Ms. Bennett: Application of Frederick A. Terry, Jr., SCTM#301-12-4-18.1, for Area Variances from Chapter 278, Zoning, and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to legalize accessory improvements and landscaping. A wetlands permit in accordance with Section 163-3 and a 61.8 foot variance is requested from Section 278-3.A.(8) to legalize clearing of land and landscaping approximately 63.2 feet from wetlands where a 125 foot setback is required. A wetlands permit in accordance with Section 163-3 and variances of approximately 41 feet and 4 feet are requested from Section 278-3.A.(8) to legalize slate walkways and retaining walls located approximately 109 feet and 146 feet from wetlands where the required setbacks are 150 feet. Variances of approximately 13.4 feet, 12.8 feet, 14 feet, and 15.8 feet are requested from Section 278-3.A.(5)(b) to legalize multiple stone walls, piers and walkways located approximately 6.6 feet, 7.2 feet, 6 feet and 4.2 feet from the side yard lot line where the required setbacks are 20 feet, and any other relief necessary. The subject property is 87,119 square feet in area and is located at 97 Briar Patch Road in Residence District R-160 and contains a scenic easement covering wetlands. This project is classified as a Type II Action in accordance with SEQR.

Mr. McMullan: Okay, thank you Pam. We have the representative for the applicant, Rick Whalen, would you be so kind to give us your presentation please.

Mr. Whalen: Yes, good morning, Richard Whalen, can you all hear?

Mr. McMullan: Yes.

Mr. Whalen: Again, good morning, I see some new faces here, things have changed around a bit since the last time I was before you. So, I am Richard Whalen, I am the attorney for the applicants who are Ted and Barbara Terry, they have owned the property for some time now. Barbara and Ted are seeking to obtain a C. of O. on the property for which they need variances specifically for an area of lawn toward mostly on the western side of the building portion of the lot and for some very, very minor structures that either do not meet wetlands or rear yard setbacks. The Board has a detailed application narrative dated May 1, 2020, I will try not to be too duplicative, that narrative may answer some of the questions that you may have and the narrative also addresses the five-part area variance balancing test that is set forth in Village Code Section 278-7.C.(2). The applicants own a two-acre lot, this is not directly on Briar Patch Road, but a private road off the very end of Briar Patch Road. The northern part of the lot is encumbered by a scenic easement that constitutes about 1.16 acres which is about 58 percent of the lot area of the property. I believe the parcel was created by a minor subdivision the Village approved in 1984 that was before the Village had a freshwater wetlands law and the setbacks were not as great as they are today.

Mr. Humphrey: Could I ask you a question about that scenic easement?

Mr. Whalen: Yes.

Mr. Humphrey: Is the owner of the property responsible for that?

Mr. Whalen: Is the owner of the property responsible? It is part of their land.

Mr. Humphrey: It is.

Mr. Whalen: It is their property.

Mr. Humphrey: Okay, all right. They have cleared.

Mr. Whalen: The scenic easement as I said about 58 percent of the applicant's lot that the entire, more than half the lot and then some.

Mr. Humphrey: I can see that.

Mr. Whalen: So there are basically two things, roughly speaking two things we are seeking variances for, first and foremost is the clearing or lawn and landscaping so I will not reiterate the variance amounts that was set forth by Pam in the hearing notice, the area of lawn involved here is not really that great, although I do not have a precise square footage figure. The lawn is mainly at the western end of the property, south of the scenic easement. The original lawn boundary as of 2006 was a little north, ran a little bit to the north of the stone driveway turnaround, I am assuming you all have the latest Saskas survey from March of 2020 in front of you.

Mr. McMullan: Yes.

Mr. Whalen: So, the original lawn boundary ran north of the driveway turnaround and then east of the turnaround and ran roughly about midway between the scenic easement edge and the walkway that you see running eastward from the driveway turnaround to the slate patio on the north side of the house. So, it was about midway between that walkway and the scenic easement. Today it now actually is, well it will be limited by the scenic easement, we are not obviously asking for any relief for clearing within the scenic easement area. North of the house, the lawn area in 2006 was relatively close to where it is today, pretty close to the southern boundary of the scenic easement. The very western part of this cleared area is not even lawn, it is actually landscaping, landscaping and shrubbery as you approach the private road. The property does not have a very extensive lawn as you can tell from the survey and any of you that have been to the property, a good part of the area south of the scenic easement, the bulk of it is, the driveway, including the turnaround area, the swimming pool and patio, and the house, and obviously a continuation of the driveway that runs south of the house itself so there is not a great deal of lawn on the property, what lawn there is, is north of the house and north of the driveway and that swimming pool area. Again, it goes without saying, we are not seeking permission for any clearing or lawn within the scenic easement area. As far as I can tell, all clearing that was shown on the March 12, 2020 Saskas survey, that is your latest application survey, all lawn that was shown on that survey that was within the scenic easement has since been revegetated, again, as far as I can tell. If any lawn area or land within the scenic easement that is shown as cleared, has not been revegetated, it will be revegetated prior to our applying for a C. of O. and we would update, re-survey accordingly. The other things for which we need relief are very minor, I would really call them de minimis structures, they consist of three slate pedestrian walkways on the east side of the house and two short sections of low stone wall northeast of the house, both end with small piers or

pillars made of stacked stone. The westerly stone pillar actually used to be within the scenic easement but the applicant moved it out of the scenic easement and re-built it. I want to note there is a garbage bin shown on the survey along the eastern property line and on the survey that you have is shown as 0.8 feet off the property line which if were in that location would require a variance. Since the survey though was updated in March that garbage bin has been moved so it is at least three feet off the property line in conformance with Village Code Section 278-3.A.(5)(d) and we will show the appropriate setback of three feet when the survey is updated for a C. of O. I provided photographs of all the structures, as I said these are slate walkways and the stacked stone walls. In my opinion they are very minor. The walkways consist of individual pieces of slate with grass growing between them, the stone wall and the pillars as well as the northerly slate walkway are within the Village's 150-foot wetlands setback for structures but these improvements have no impact on wetlands whatsoever, they do not pollute, they do not generate runoff...[inaudible]...and visually they are innocuous. The same is true of the impact those structures might have on the neighboring property to the east. Any variances sought from yard setbacks concern the property line to our east. That property is very, very heavy vegetation east of the Terry's eastern property line and in fact the house and the other improvements on the neighbor's property are pretty far away from the property line. So, if you have visited the property, there is no conceivable way the neighbor to the east is even going to see these structures much less be impacted by them. I do want to point out that the easterly stone pillar is 4.4 feet from the property line, not 6.6 feet and thus it requires a 15.6-foot rear yard variance, rear yard setback variance, not 13.4 feet which is what is stated in the hearing notice. So the Terrys would very much like to have everything on their property put in order so they can get a C. of O. and have the property completely legal so I would ask that you grant the relief that we are seeking here today which I think is very minor so they can move ahead and get a C. of O. and move on with their lives. So that is my presentation if you have any questions, I would be happy to answer them.

Mr. McMullan: Thank you Rick, appreciate that. Pam, do we have any neighbors to be heard on this matter?

Ms. Bennett: I do not believe so but they should speak up or call in.

Mr. McMullan: Okay.

Mr. Gambino: Currently there is nobody on the line.

Mr. McMullan: Thank you. Billy, do you have anything else to add to this application?

Mr. Hajek: No, I have no comments to offer. I think Rick summarized it pretty well and I think the photographs he submitted yesterday were very helpful.

Mr. McMullan: Great. Do any other Board Members or the applicant themselves have any other questions?

Mr. Humphrey: I looked at this property several times and lots of lines on the survey so I finally figured out and it looks to me like, if you took an imaginative, if you ran from the stacked wall on the eastern side of the property, to the western side of the property, anything south of that is pretty much what they have cleared out, and it looks like to the north of there, I do not know, but it may even be that they are going to re-vegetate some of that because it looks like there are some plantings that have been put in and so on, is that right?

Mr. Whalen: There were, we had to make some, we had to make plantings within the scenic easement area, there was a wetland violation that they were cited for and at this point I believe the Village, to the best of my knowledge, is basically satisfied with that re-vegetation.

Mr. McMullan: There were some other areas that still needed some re-vegetation but that was going to happen before a C.O. was granted, correct?

Mr. Whalen: If there is anything left to be re-vegetated, we will have to do that before we get a C. of O.

Mr. McMullan: Great, thank you. Any other further questions?

Mr. O'Connell: Jim, I would just like to note that we received a letter from Jeanne Cassin that is part of the record from October 27, 2020.

Mr. McMullan: Did everybody have a chance to read that?

Mr. Whalen: I have not, can you tell me what the letter says?

Mr. McMullan: Pam, do you have that letter in front of you?

Ms. Bennett: Yes, I do.

Mr. McMullan: Can you could read that.

Ms. Bennett: Thank you for your notice of hearing concerning the application of Frederick Terry for variance, etc. My house is at 112 Briar Patch Road, across the street from his. In light of all the recent issues relating to the health of Georgica Pond, including the impact of pollution and septic seepage, I wanted to urge the Board to be cautious about granting wetland permits. I so appreciate your attention to these and other issues in your difficult job of assessing the requests that come to you. Jeanne Cassin

Mr. McMullan: Thank you Pam.

Mr. Whalen: As I have noted I think the relief sought here is not such that would contribute to any degradation of the water quality in Georgica so that would be my response to the letter.

Mr. McMullan: And as we have heard before is that there is re-vegetation going on and that will all be restored back to the Village's liking before any C. of O. will be granted.

Mr. Whalen: That is correct.

Mr. McMullan: If there are no other further questions or comments, I would request a motion to close the hearing.

Mr. Humphrey: So moved.

Mr. O'Connell: Second.

Mr. McMullan: All in favor?

Mr. Baris: Aye.

Mr. Rose: Aye.

Mr. O'Connell: Aye.

Mr. McMullan: Thank you.

Mr. Whalen: Thank you.

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Mr. McMullan: I will turn it back over to John McGuirk.

Ms. Baldwin: Did you guys want to discuss it before we move to the next hearing?

Mr. O'Connell: The determination?

Ms. Baldwin: Yes. The application.

Mr. McMullan: We can if that would be the Board's feeling.

Mr. Humphrey: What is this?

Mr. McMullan: Do we want to render our...[inaudible]. Phil, do you have any problems with approving this application?

Mr. O'Connell: No, I do not.

Mr. McMullan: Joe Rose?

Mr. Rose: No.

Mr. McMullan: Craig Humphrey?

Mr. Humphrey: No, I am fine with it.

Mr. McMullan: And Andy Baris?

Mr. Baris: I am fine with it.

Mr. McMullan: I am as well so if we can please write a determination that would be great.

Ms. Baldwin: Yes.

Mr. Whalen: All right, thank you.

Mr. McMullan: Thank you Beth.

ORIGINAL HEARING
7 West End Road LLC – 7 West End Road – SCTM #301-15-4-7

Mr. McGuirk: The next hearing we have on is 7 West End Road LLC, 7 West End Road, James McMullan will be sitting on it, we have Joe Rose will be sitting on this hearing, Phil O'Connell, Craig Humphrey, Andy will not be sitting on this. Did I leave anybody out? I do not think so, okay. Pam, could you please read the notice.

Ms. Baldwin: Before we read, just one thing, just as a reminder John we are going to start swearing in non-attorneys before they speak so anybody who is going to speak on this application, if you are not an attorney, Pam is going to swear you in. You just want to state your name, your address, it can be your business address and then she is going to read the swearing in so just so everybody is aware.

Mr. Ackerman: This is Lenny Ackerman here...

Ms. Bennett: Let me read the Notice of Hearing, Lenny...

Mr. McGuirk: Lenny, we have to read the notice first.

Mr. Ackerman: Oh, I am sorry.

Ms. Bennett: Application of 7 West End Road LLC, SCTM#301-15-4-7, for Variances from Chapter 101, Coastal Erosion Hazard Areas, and Chapter 124, Preservation of Dunes, and Chapter 278, Zoning, to make alterations to a legally preexisting nonconforming building and decking. A variance is requested from Section 278-7.C.(2)(d)[1] to make alterations to a second dwelling/residential use where a residential property is permitted one dwelling/residential use. A Coastal Erosion Hazard Area Permit and Variances are requested in accordance with Sections 101-9.(B) and 101-19 to make alterations to a legally preexisting nonconforming building and decking located seaward of the Coastal Erosion Hazard Area line and situated on a primary dune. Variances of 56.4 feet and 63.1 feet are required from the provisions of Section 124-1.A.(2) and Section 278-3.A.(7) to make alterations to a building located 43.6 feet and decking located 36.9 feet from the 15-foot contour line where the required setbacks are 100 feet. Variances of 100.8 feet and 107.3 feet are required from the provisions of Section 124-1.A.(2) and Section 278-3.A.(7) to make alterations to a building located 49.2 feet from the edge of beach and decking located 42.7 feet from the edge of beach where the required setbacks are 150 feet. Variances of 14 feet and 0.8 feet are

required from Section 278-3.A.(4)(a) to make alterations to a building located 36 feet from the side yard lot line and 49.2 feet from the rear yard lot line where the required setbacks are 50 feet, and any other relief necessary. The subject property is 154,772 square feet in area and is located at 7 West End Road in Residence District R-160. The property adjoins the ocean beach and is located in FEMA Flood Zone VE (el. 17), Zone AE (el. 10) and Zone X. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Thank you Pam. The applicant?

Mr. Ackerman: Good morning, if you want me to give you the list of potential witnesses here and consultants on these and give you their names and you can swear them all in at once. Beth, do you want to do it before the meeting starts?

Ms. Baldwin: You can do it now if you know who is going to speak and then they can all just do it now and then we do not have to stop for each one, that is fine.

Mr. Ackerman: We have a list of consultants who will be available to answer any questions, they are not going to be a part of the initial presentation, there is Jim Taylor the architect, Rich Warren of Inter-Science our environmental consultant, Thom Lawrence our construction consultant, Steve Maresca and Katie Maresca who are our engineers.

Ms. Bennett: Do you want to raise your right hand please, everybody.

Mr. Weishar: Lee Weishar.

Ms. Bennett: State your name.

Mr. Warren: Richard Warren.

Mr. Weishar: Lee Weishar.

Mr. Taylor: Jim Taylor.

Mr. Maresca: Steve Maresca.

Ms. Maresca: Katherine Maresca.

Ms. Bennett: Do you swear to tell the truth, the whole trust and nothing but the truth?

Mr. Weishar: Yes.

Mr. Taylor: I do.

Mr. Warren: Yes.

Mr. Maresca: Yes.

Ms. Maresca: Yes.

Ms. Bennett: Thank you.

Mr. McGuirk: Mr. Ackerman?

Mr. Ackerman: Good morning, welcome to the new members, it is a pleasure to be here, I wish I could be in East Hampton in person but due to the COVID pandemic, I am hiding out in Florida. First, I am going to tell you a little bit before I get to the history of which cottage and how we got to from what you are looking at to where we are in this application today. Our clients are a young family, small children, an adult son, one child of six years old and a teenage child. They obviously, with the pandemic, have taken residence in East Hampton Village they have another home, they have had an opportunity since acquiring this property in 2019. They have had some preliminary maintenance done so that they would have an opportunity to spend time so they could develop with Jim Taylor a program which is the basis of this application today. This cottage is rather unique. This property has only been owned by Paul Manheim, an interesting member of the East Hampton community, probably of the same era as Joe Rose's family. Paul Manheim built this in 1963 at the same time that he built the main house which is in a conforming location outside of FEMA and outside the coastal erosion. Paul Manheim's cocktail parties on this house on late Saturday afternoon, a scene in itself, Mr. Manheim in his blue blazer and classic white shirt would entertain when young families like the Ackermans would be on Georgica Beach looking up and saying oh my gosh this was a very iconic interesting. The Resnick family want to bring it back to what it was. Between 1963 and the Sandy event when the portion of the deck was destroyed as well as some of the beach and sand obviously was relocated, this property had very little maintenance. Paul Manheim died in 1999 and from 1999 until the purchase by the Resnick family, there has been virtually no

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maintenance on this property. The initial building permit that was granted upon the Resnick's purchase in 2019 basically allowed them to replace the deck, they replaced some of the bathroom utilities, some of the appliances, mostly for safety purposes, and it allowed them to occupy on a limited basis while they invited Jim Taylor and his team in to come up with the program. I wish just to outline for you before we get to discussion of the interior renovations and the exterior, this is a renovation, we are maintaining the existing footprint, these are only interior changes, there is no extension of the deck. In fact, in an area which we will show you, the deck has actually been lessened. There is no intensification of the nonconforming status as to coastal erosion the dune crest with the beach grass. In fact, they have eliminated a bathroom and a bedroom. The mitigation here is very significant and I do not think should be taken lightly. The sanitary, which is located within Coastal Erosion, will be removed, a new upgraded sanitary system will be connected to this via pipe so the coastal erosion area will not be impacted whatsoever by sanitary. Most importantly and pursuant to Billy Hajek's reference, the cottage is being made FEMA compliant and I think that is a significant mitigation factor. Let us go through the list of interior renovations, they are raising the ceiling, there is no change in the roofline except for the chimney, there is a prefab fireplace, and, again, a fireplace here is significant. This family will be utilizing this on a much more permanent basis than Paul Manheim ever envisioned. In the Manheim case it was used principally on weekends for his family use. This is a significantly larger family who want to enjoy the advantages of being right on the beach, particularly Georgica Beach. There is a vision here as far as the interior renovations, removing the bathroom as I noted, removing a bedroom, again, lessening the intensification, the reconfiguration of the rooms basically they are reconfiguring the powder room, they are increasing the pantry area of the kitchen and I think that goes significantly to evidence here of de-intensifying. With respect to the exterior changes, they are doing a deck stair enclosure, they attempted, as you will note, to do a deck stair improvement on the initial work that was done for maintenance because of the safety concerns you saw the opening there, however, that is not working and with the intense water and rain there, they decided it would be best if they had some form of enclosure and they could maintain within the storage area that they are utilizing their beach equipment. They are proposing a retractable awning and an upgrade of the barbeque and sink. The barbeque that they have now is a portable barbeque there and they are seeking to do a permanent barbeque. Again, the piping to the new sanitary outside of CEHA is part of this application, removal of the sanitary is part of the application. With respect to window replacement, they are changing out the existing windows and they are adding new windows on the north and the side of larger windows and they are replacing the front door. With respect to shingling, they are going to do a

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roof repair which has never been done here since 1963 apparently and they are going to replace, as necessary, the siding. With respect to the grounds for the CEHA variance, again, we look at mitigation, we look at retreat. There is no reasonable setback location that would not maintain the view and of course it would damage the dune. Lee Weishar is available if anyone wants to discuss with him the damage that would result to the dune as a result of retreating. Contractor protocols demonstrated that dealing with the environmental impacts with respect to FEMA and removing the sanitary, again, I cannot emphasize how important it is when making a preexisting nonconforming structure FEMA compliant and, at the same time, we have moved an existing nonconforming sanitary system that is in the dune itself. We have demonstrated through Lee Weishar's report and his testimony that is available that this property is safe from flooding and since 1963 it withstood the Sandy hurricane, the only loss then was a portion of the deck area. Again, this is the minimum relief, no intensification, removing a bedroom, again, de-intensification, only one bathroom, and the other interior decorative windows, looking out to the ocean which I think is important here in terms of preserving the iconic nature of this property. Of course, this is self-created. Anything that is within existing CEHA which was preexisting has to be self-created. With respect to area variance's grounds, no change in the character of the neighborhood, again, as I indicated since 1963 this has been an iconic little cottage located on the beach at Georgica, very lovely, has a lot of history and a long story. The variance, again, I believe is not substantial, it is decorative, there is mitigation, no environmental impact, and, again, self-created only by virtue of being preexisting nonconforming. The architect is available, all of our environmental people are available, Steve Maresca is available, and Thom Lawrence who is our construction consultant is available. I will respond to Mr. Sullivan after he speaks if I have that opportunity. Thank you.

Mr. McGuirk: We are going to hear from the Village Planner now. Billy, are you there?

Mr. Hajek: Yes, I am here. Good morning Members of the Board, I prepared a report for the Board, it is dated October 28. I expect everybody had an opportunity to review it. I basically reviewed the project, summarized the proposed improvements as described by Mr. Ackerman and the site conditions. In terms of describing the project, I just wanted to clarify that the Code does not define renovation or renovating a building, the Code defines work based on when you live in a FEMA flood zone or within the Coastal Erosion Hazard Area, defines the work as being the magnitude of the alterations that are occurring and alterations are structural change in the building which is being conducted here. So the FEMA

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regulations, because it is in a velocity zone, require the building be put on piles and no improvements below the first floor elevation, utilities have to be above base flood elevation, and there are a series of anchoring and construction protocols, and that is all relevant if the work that is being conducted qualifies as a substantial improvement which means that 50 percent or more of the work, the value of that work, exceeds the replacement cost of the existing structure. As far as I am aware, that valuation test has not been conducted but the applicant, I assume, has conceded that it exceeds 50 percent as they are proposing to make the building FEMA compliant. They did submit a revised plan showing how the foundation can be altered and how the helical piles could be installed. They also submitted a revised construction protocol. I have reviewed that document and I have no real substantial comments in response to it. I think it demonstrates that the work could occur within sort of the footprint or within the foundation of the existing structure without disturbing the dune. The other component to this is the Coastal Erosion Hazard Area law which is, if you look at the survey, that is the gray line that sits landward of the existing cottage. It encompasses roughly the I guess I will call it the flagpole portion of the lot that extends out onto Georgica Beach. So, the Coastal Erosion Hazard Area law recognizes that area as being prone to erosion or has the potential to be erosive. Coincidentally the Coastal Erosion Hazard Area line more or less correlates to the FEMA Flood Zone line so just landward of the Coastal Erosion Hazard Area line, the FEMA Flood Zone line changes from a velocity zone to an AE Zone and that is kind of interesting in that respect. But the other valuation test here is that the Coastal Erosion Hazard Area law describes alterations and modifications, and if you are modifying a structure to the point where the work exceeds 50 percent in value of the replacement cost, the Coastal Erosion Hazard Area law says that that type of work requires a variance, and in reviewing a variance request, if the work is so elaborate that it is essentially being a reconstruction or if you are reconstructing the building, I think the Board should look at the variance standards pretty closely which the applicant has addressed and decide whether or not the application meets the threshold for granting of relief. I have addressed the construction protocol and the revised protocol, I have no comments related to that. The sanitary system is being upgraded. This project technically would not require an upgrade, a septic upgrade, so I think that work is viewed as mitigation and it would be a new innovative alternative septic system that is up near the location of the existing house. I did have some recommended mitigation or conditions of approval, I will not read those, they are laid out in the memorandum, but if the Board has any questions for me, I would be happy to try to answer them.

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Mr. Humphrey: Billy, I looked at this and I did not understand what the upgraded, the septic tank system, I thought it was going to be at that cottage but it is not, it is going to be up at the principal structure with a connection from the cottage to the modified septic system as it comes down through the dune or wherever and that makes it better, in my mind, because I could not imagine how you could take that cottage and do a lot of major things to a septic system down in there with all the overgrowth but you are not going to do that, you are going to work at the principal structure, right?

Mr. Hajek: Yes.

Mr. Ackerman: That is correct.

Mr. Hajek: The septic system is I guess it is probably a forced main and it will be ejected to the new septic system that is up near the existing house. Just to remind you when, the newer Board Members, this application was reviewed by the Zoning Board I do not know maybe a year ago or less than a year ago and that work was to conduct a restoration of the backside or landward side of the dune where they are going to remove existing non-native vegetation and re-contour the dune area around the cottage and re-vegetate it. So that permit is still, that was an approved permit, they still have the right to act on that permit, and I would assume that that work would be conducted in conjunction with the cottage renovation but I do not know.

Mr. Ackerman: That is correct, Billy, it will be.

Mr. McGuirk: We just approved that a couple of meetings back I believe.

Mr. Hajek: Oh okay.

Mr. McGuirk: I think it was pretty recent.

Mr. O'Connell: I was out there the other day and they were clear cutting all that non-native vegetation.

Mr. Ackerman: Sorry, Phil, what did you just say? I am sorry, Phil, what did you say?

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Mr. O'Connell: I said I was up there the other day and they were cutting all that non-native vegetation, they had a big crew there, they were taking it and grinding it, and chopping it down.

Mr. Ackerman: This is Lenny. Craig's point is very important because you can tell from, the reason I put the additional photos up for you of the condition of this little 800 square foot cottage upon the Resnick's purchase was to show you this thing withstood the Sandy hurricane and they are making a considerable effort here by both a dune crossing permit, they filed with the D.E.C., there is a non-jurisdiction letter from the D.E.C., everything they have done prior to this application demonstrates their environmental conscientious. And responding to Billy, Billy, we did not concede that we are over the 50 percent rule by going FEMA. We took your recommendation, which was an excellent one, we went to Steve Maresca and we said, Steve, Billy is right, if we can do this, we should do this. We went to the client and the client said absolutely, we should do this. This would have been part of our original application to do the helical piles, however, we just, we were focused so much on everything above ground that we never got into the basement. The basement has nothing in it, it is a perfect location, and fits exactly the needs here.

Mr. McGuirk: Len, the 50 percent...

Mr. Hajek: So, you are not exceeding the 50 percent threshold, this project does not exceed 50 percent?

Mr. Ackerman: I am not pricing out this project and building this project. I cannot tell you what this is going to cost until we get your affirmative determination and we have the construction drawings in place, all right, the drawings you have are for this application and until we are in a position to price this out, but I cannot tell you what this is going to cost. We did minimal work on the maintenance permit, all right, there is unfounded allegations by Mr. Sullivan and Ms. Zweig about how much we spent. I cannot confirm that, I do not know that, I do not think the client even knows how much he spent at this point but all I can tell you is we changed some toilets during maintenance, we saw the condition...

Mr. McGuirk: Can I make a comment. The pictures that you showed on the, the ones that were rolling here before, does not look anything like that house at this point. I have been up there, I think all of my colleagues have been up there, that house does not look like that at all.

Mr. Humphrey: That is a post Sandy picture.

Mr. Ackerman: What is your point though, John? What are you saying?

Mr. McGuirk: Well the house has been, there has been some maintenance done on the house, I mean it is in pretty good shape, I mean it does not look like this, the pictures that you showed.

Mr. Ackerman: John, when a house is not maintained, I am not debating anything with you, my wheelhouse is not construction, when a house is maintained, all right, over a period of time from at least the death of Paul Manheim in 1999 there was very little maintenance, if any maintenance done, okay. Prior to 1999, between 1963 and 1999, I have no way of knowing what was done here. There were no building permits except one building permit pursuant to Sandy to fix the deck and you saw the condition of the deck. Of course, the deck was, you can see the deck was rebuilt, the toilets were made, the bathrooms were made operational, they cleaned it up, you can see where they cleaned, they repaired boards and the like. It withstood being on the ocean, however, that should not be a negative for someone who wants to maintain and continue to maintain a property and add some amenities to it. We should not be getting into what people are spending, all right, that is why we are here asking for a variance. I do not think we should be dictating to someone whether they should put a fireplace in their cottage or not a fireplace in their cottage. There is no environmental impact. Let us be frank here. We are not expanding in the footprint, we are not expanding the deck, we reduced the deck in size, there is a barbeque going here, a little storage bin going here, we are raising the ceilings inside the house, we are putting in some windows. What is the harm here? Who is harmed by this? I have not heard anybody harmed? The Zweig's harmed? They do not even see this house. What is their harm? I would like to hear Mr. Sullivan, what is his harm?

Mr. McGuirk: Why do we not let the neighbor, would anybody like to speak on this application, not on the Board?

Mr. Ackerman: Someone is going to speak, could they speak up so I can hear them.

Mr. Sullivan: May I speak?

Mr. McGuirk: Yes, please. Please state your name.

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Mr. Sullivan: Robert Sullivan, 11 West End Road, East Hampton Village.

Mr. McGuirk: Thank you.

Ms. Bennett: Beth, do I swear him in?

Ms. Baldwin: John, he needs to be sworn in.

Mr. Sullivan: Can you see me?

Ms. Bennett: Mr. Sullivan?

Mr. Sullivan: Yes.

Ms. Bennett: Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Sullivan: I do.

Ms. Bennett: Thank you.

Mr. Sullivan: The chimney that they want to put on top of structure is directly in our view from our second and third floor patios, and we object to the height of it, we do not think it has to be four foot above the roof or more. As far as the windows, they have all been changed. If you look at what they show in Sandy and what they are showing today, they just renovated the windows, they have renovated the inside, it has been totally gutted and redone, therefore, I do not see why they have to do it over again within a year. Thank you.

Mr. McGuirk: Thank you Mr. Sullivan. So, 7 West End Road, the stone revetment was built in 1978 I believe, that is what it says on I believe on one of the reports I read and was damaged in the hurricane of '78 I believe and then it was exposed again in Irene and then the house was exposed again in Sandy. There has been lots of sand added to that location, 2,500 cubic yards of sand was added on October of 2013, and then on October of 2014, another 5,000 cubic yards were added. It is almost, the cottage to me seems like it is on the beach, not on the dunes, but that is my feeling of it. I think the mitigating factors on having the septic system or the new IA system in front of the house is a mitigating factor, and I think if you did helical piles, I think that would definitely be a mitigating factor on this application. I do not want to see any expansion of any grills, any fireplaces,

I would be happy if you want to do the windows, you want to make it look nice on the outside, I have no issues with that but I do not want to see any more expansion of the structure.

Mr. Ackerman: Wait, John, I am sorry but I just cannot hear everything. What are you saying you object to?

Mr. McGuirk: I think I do not want to see any more expansion with the roofline or I think you call it like the bulkhead in the back. I think this is a unique cottage, it is probably only cottage of its type in the Village of East Hampton except for the cabanas down at Maidstone Club that really sit on the beach. That is my two cents, I will let my other Board Members add in.

Mr. Ackerman: John, could I just ask you so I understand. The roofline is not changing, we are not expanding the roof.

Mr. McGuirk: You are going to add a chimney to it now.

Mr. Ackerman: Well, oh, that is what you mean by the roofline, the chimney, okay. Jim, when we get done here, I want you to respond to that and what was the other thing, it is just the fireplace, it is just the fireplace you are objecting to?

Mr. McGuirk: You asked for some additions on the back of the home, a bulkhead?

Mr. Ackerman: I do not know what, all right, well, okay, Jim will have to, Jim, you are going to have to explain this and get something on the screen so we can see it.

Mr. McGuirk: I would like to hear from other Board Members though from the ZBA...

Mr. Ackerman: No, no, I understand, sure, sure.

Mr. O'Connell: So, I am in agreement with John, enclosing the bulkhead that was initially kind of on a hinge and I believe it is still on that hinge, it should stay the way it is. I do not think that on the east side you should expand kind of where that little sink area has always been that you are talking about now putting a barbeque and some other things in there. I have been going to this beach regularly since 1979, almost daily, and I have seen that foundation exposed several times as well as the deck hanging several times. My feeling is that anything, we should not

allow anything other than maintenance forward of the Coastal Erosion Hazard Line but I am in line with allowing you to do the internal reno, raise the roof height but no change to the roofline including the chimney, no change to what is outside, no enclosing the bulkhead, no to the sink, and I think just so that we have it for the record, we should do the valuation so that we have that valuation for both FEMA and CEH purposes in our record.

Mr. McGuirk: Jimmy or Joe Rose?

Mr. McMullan: Yes, I am in agreement with everything. I know this cottage kind of hangs out in the middle of no man's land when it comes to our winter weather and storms so I understand that shoring that up with the helical piles and everything is the right move. To maintain the look of this, the overall look, keeping the roof height, maybe just clean up the outside is good not only for the homeowner but also for the Village and I think a lot of this stuff could be considered somewhat maintenance but I want to make sure that like all these walls are not being taken down and then just reconstructed. A renovation by Code is really just leaving the exterior walls the way they are, I do not think they should be taken down and rebuilt even sectionally, and I think that needs to be carefully watched as well but other than that, I think everything else is fine.

Mr. McGuirk: Craig or Joe?

Mr. Rose: I am sympathetic to the comments of the other Board Members, I have a couple of additional questions. One is, just excuse me if I, this is my first meeting so there may be some things I am not familiar with just procedurally but was some mention regarding both Mr. Ackerman's most recent letter and in a letter from the neighbor regarding the main structure that is going to be, I gather, rebuilt on the property. I just want to make sure from a, to avoid a segmentation kind of a situation in terms of sequential applications, is it anticipated that this is the last variance being sought for this whole property or is this part of a sequence of applications?

Mr. Ackerman: Let me respond to that. First of all, this is the application that is before the Board. If when we, when and if the main structure is built, if that requires a variance, we cannot be prohibited or ask to waive that application. This is the application that is for the cottage. It happens that it is on the same piece of property as the upland portion but the upland portion is out of FEMA and out of Coastal Erosion so there would be no Coastal Erosion application or FEMA but there might be perhaps a side yard variance application or a height variance

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application. That program has not been developed. You cannot, constitutionally you cannot ask someone to waive their rights to a future application.

Mr. Rose: I did not say anything about waiving anybody's rights, I asked a question in terms of whether it is anticipated if there will be...

Mr. Ackerman: The answer is no right now...

Mr. Rose: Excuse me, I thought in the letter that you sent that it said that the anticipation was that it would be built, the structure was anticipated to be built on an as of right basis.

Mr. Ackerman: Well that is, yes, that is our, it is my interpretation of what I have heard but I have not even seen any plans for the main house right now but we do not have any, we are not contemplating any more applications for this cottage at this time. This is what we were asking for which we thought was reasonable under the circumstances and right now I am just trying to see what it is that everyone objects to. Do you object to the chimney?

Mr. Rose: I think the, as you said, and this has been echoed by other Members of the Board, this is one of the most visible, while a small structure, it is probably among the most visible certainly beachside in the Village and so its impact is, I do not know if impact is the right word, but its presence is certainly felt, and I guess I think the concerns are reasonable concerns as expressed in terms of the impact and there is an intensification of use. So I am sympathetic to the sentiments expressed by the other Board Members but I do think to look at some of the variances being sought are, all the ones relating to the preservation of the dune and the FEMA issues seem to be extremely appropriate and the septic system makes sense, but it is hard to look at this within the context of just solely the cottage without anticipating how it relates to the whole property but I understand the presence of this cottage from obviously I am sympathetic, well be clear, I am sympathetic to the effort to renovate it and bring it into a more usable condition. How to do so in a way that is sympathetic both to the environmental and impact on the character of one of the most important parts of the Village is also important.

Mr. McGuirk: Craig, do you have any comments?

Mr. Humphrey: No, I said I was pleased to see that they are going to upgrade the septic system and most of that work will be done at the main house. I cannot relate to the idea that the chimney is a problem but Mr. Sullivan and his family that live

near there and if it is an obstruction to them, I cannot speak to that, they have registered a complaint or a reservation that I think is certainly within the ballpark of things that are relevant. So, I would not be upset about the chimney but there is somebody that I think is relevant here that is and so that should be taken into account. That is all I have to say.

Mr. Ackerman: John, can I speak to this or not?

Mr. McGuirk: Okay Len, go ahead.

Mr. Ackerman: Okay, first of all, Mr. Sullivan, do you have a photograph to show that your viewscape is impacted by this proposed chimney, do you have anything to show me that supports your claim?

Mr. McGuirk: Just for the record though, Mr. Ackerman, we got the letter from the neighbors yesterday...

Mr. Ackerman: So did I.

Mr. McGuirk: I do not think the neighbor's view is at least skewing what I have in my mind with the chimney, I mean I do not want to see any more expansion of the cottage, and I do not think it is the neighbors that are pushing us in the other direction.

Mr. Ackerman: So, is it, just so I can focus because I have to get Jim up here and see that, I want to close this hearing today, is it just the chimney, is that what we are focused on right now, is it only the chimney?

Mr. McGuirk: You can do, I am only one vote here, you can do windows, have the bigger windows, the awnings, they are retractable awnings?

Mr. Ackerman: Yes.

Mr. McGuirk: I have no problem with that but no more expansion of basically any of it.

Mr. Ackerman: I need to understand what that means. It is the chimney and what else is there? Well let me just run through the list so that I want to get it resolved. That is all. So, the chimney I understand, that means the fireplace, because you cannot have a fireplace without a chimney.

Mr. O'Connell: You can.

Mr. McGuirk: That is not necessarily, talk to your architect.

Mr. Ackerman: All right then we are going to get the architect on that. The interior reconfiguration of the rooms you have no issue with, correct?

Mr. McGuirk: I do not.

Mr. Ackerman: Let us talk about the exterior. You do not like this deck stair enclosure, that is what you call a bulkhead, right, that is the bulkhead thing?

Mr. McGuirk: What is existing now is what you can have, that is kind of what I think.

Mr. Ackerman: Okay, we understand that. The awning you are okay with?

Mr. McGuirk: I am only one vote so.

Mr. Ackerman: No, I understand, John, that is why I am going through this with you, I know you are, but do you object to the barbeque, the sink is already there, they already have a barbeque.

Mr. McMullan: The enclosure is getting larger.

Mr. McGuirk: It is getting larger, it is growing, you have to get a regular barbeque, I mean I do not want to tell people what to have.

Mr. Ackerman: Okay I will get to that, the windows you are okay with, correct?

Mr. McGuirk: I am.

Mr. McMullan: Yes.

Mr. Ackerman: Okay, so what we are down to, okay, and I have one other thing I need to understand. First of all, Phil, Phil...

Mr. O'Connell: Yes.

Mr. Ackerman: If this Board starts imposing a monetary limitation, calculation on every application within the Coastal Erosion and FEMA, that is always calculated at the Building Department when you apply for your Building Permit. That is not within the purview. We are applying for a variance but we do not know what something is going to cost until we have final plans and it is out for bid. I think if you start going down calculating and limiting people to what they can spend, there is no reason for you to wear your ZBA hat any more. You do not need to have Friday meetings because you are not granting variances any more. You cannot take away people's right to a variance. I mean that is unconstitutional, you know that as a lawyer, it is unconstitutional, oh if you do not build this within what we say, what Kenny Collum says is 50 percent...

Mr. O'Connell: That is not what I said Lenny. What I said...

Mr. Ackerman: I see you going there and I can tell you that is a question that that is something that will be litigated and will put the ZBA and the Village in extremes because you just cannot say to people, well if you do not build it within the, that is what we had with Mr. Phillips when someone said to Mr. Phillips from the ZBA well why do you need such a big house? Well look that is what the valve is for, that is what the ZBA is for...

Mr. O'Connell: Lenny, let me speak please. If it was less than 50 percent, we would not have the FEMA issue...

Mr. Goldstein: Lenny...

Mr. Ackerman: Just a minute Andy, just a minute Andy, just a second. Phil, we are putting in pilings because Billy recommended pilings not because we are over 50 percent. We have no idea what this is going to cost because we do not even know what we can build yet. How can I tell you what it is going to cost? In any event, I just want to clarify my position. John has given me some indication, you have given me, Jim has given it to me, Mr. Rose has given it to me, I think what I would like to do is bring the architect on, okay.

Mr. Sullivan: May I speak?

Mr. Ackerman: I am sorry, who is that?

Mr. Sullivan: Robert Sullivan.

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Mr. Ackerman: Oh sure, Mr. Sullivan, of course.

Mr. Sullivan: The drawings that I have that I could view, when you put the pilings in taking out the first-floor floor beams, joists, when you put the waterproofing and under the sill plate you have to change the sill plate. Are you tearing this structure totally down and building it from new?

Mr. Goldstein: No.

Mr. Ackerman: No. We are not tearing it down. We are putting in, we are making it FEMA compliant because that is the right thing to do...

Mr. Sullivan: But how...

Mr. Ackerman: Well then why do you not, Mr. Sullivan, I am not an engineer, we have the engineer who designed, do you want to get into the weeds on that, I would be glad to have him respond to you.

Mr. Sullivan: I do not know how you are going to get the steel beams in...

Mr. McGuirk: I do not think you need to get into...

Mr. Sullivan: Floor joist marked on the drawings.

Mr. Ackerman: Do you want Steve Maresca to address how he is going to make it FEMA compliant? Do you really want to get into it?

Mr. Sullivan: No, the pilings are not a problem but it is a foot above them, the new pilings are going to support the structure, it is not going to be sitting on the foundation when you are done, that is a breakaway foundation. My question is if you are tearing out the whole structure what is going to hold the side walls up when you are changing the doors and windows? There is not enough structure left to hold it up. I would feel much better if you could guarantee that no outside walls would be torn down.

Mr. Ackerman: I have to ask, Jim, let the architect, Mr. Sullivan, just stay there...

Mr. McGuirk: Let us move on here, let us have the architect and the engineer speak a little bit here.

16203

Ms. Baldwin: And everyone should be addressing the Board not each other.

Mr. McGuirk: Say that again Beth.

Ms. Baldwin: The speakers should be addressing the Board not having conversations with each other.

Mr. Ackerman: Okay.

Mr. Taylor: So good afternoon Members of the Board, this is Jim Taylor speaking, I am the architect. I want to address three points that have come up this morning. One is about the chimney, I want to point out, I guess Nick if you can move to the imagine that shows the house from the southeast as if you are walking on the beach, and I think this is very instructive because it shows how the chimney, there is a rendering Nick, there you go, I want to point out actually I have the New York State Code on my screen that I am looking at right now. The chimney that is currently shown in this imagine at four feet eight inches, we could reduce it to a legal minimum of 36 inches above the ridge and so I want to flirt that as a possible idea that might help reduce the concerns about it. I thought it was interesting that this image also shows chimneys of a similar obviously a much larger house in the distance. I thought that was an interesting juxtaposition. With regard to the stair bulkhead, yes there is currently a door, a horizontal hinged door on the stair, I wanted to say a couple of things about that. One of them is that it is ineffective when it comes to keeping the rain out of the basement and for obvious reasons, even though there is nothing in the basement, it is still good for it to be as dry as possible. Secondly, with that door open, even with a handrail around it, I think my client has a very legitimate concern about the safety of an opening. It is a direct drop onto concrete and they are deeply concerned about the safety of their children. I also want to point out, maybe Nick if you can jump to the model pictures at the end of the presentation, that the enclosure that we are proposing over the stair is limited to the height of the existing fence so it would be non-visible from the east, it certainly is not visible from the north because there is no public access there, and if you jump back to that beach picture again from the south, it is so far back on the deck that it is not visible from the beach, and I think there is another image Nick if you go further on, there is a due south image where clearly that bulkhead, that stair enclosure is not visible. Finally, I just want to address the concern about the framing. Our instructions to the general contractor will be to maintain every existing piece of fabric that they can while they are executing this work. Thank you.

16204

Mr. Rose: Can I ask a question to the architect?

Mr. McGuirk: Sure.

Mr. Rose: The southern windows, it looks like on the plans that they look like doors, not windows. Is that, can you just talk to what that...

Mr. Taylor: Sure. Nick, can you go to the comparative plans or the plans would be fine. So actually, in this drawing, so on the right side you can see in the proposed elevations the two sashes that are on the side, the flanking sashes, those are fixed, and then the four center sashes are operable.

Mr. Rose: Operable as doors? Would there be access onto the deck, would those open up like French doors or are those windows?

Mr. Taylor: Correct, they would open up like French doors.

Mr. McGuirk: Jimmy, do you want to comment?

Mr. McMullan: No, I think we have expressed our concerns, I still believe that chimney, no matter what height it is, it does change the landscape and a view from the beach and I am sure it does, at some point, impact Mr. Sullivan. I think maintaining the existing profile and everything of the cottage is desirable for the Village, and I do not have a problem with that bulkhead being the same height as the surrounding walls that are protecting it from the...

Mr. McGuirk: So, you will allow them to expand the bulkhead in the back?

Mr. McMullan: I do not mind them putting the cover over that bulkhead to make it weather tight and to prevent anybody from falling in there. I do not have a problem with that. The thing with the barbeque is they are expanding that and making basically an outdoor kitchen, that I do have a problem with. I think it should be maintained to what the size of that area is now, what they put in there, a sink or barbeque and how they lay it out does not bother me just as long as it maintains the same size. Those are the only two things, the chimney and the barbeque area, are the problems that I have.

Mr. McGuirk: Billy, should we be concerned about the protocol of how they are going to do this maintenance work?

Mr. Hajek: Well the protocol does not really address the construction, the specific construction of walls. It talks about where garbage is going to be placed, where project limiting fence is going to be installed. It does not get into the level of detail in terms of how each wall is going to be built or rebuilt but construction protocols usually do not get into that level of detail unless there is an issue of excavation or something along those lines.

Mr. McMullan: Billy, can you correct me if I am wrong that a lot of that falls within the realm of the Building Inspectors or Code Enforcement, correct?

Mr. Hajek: Yes. I would just like to take the opportunity to clarify two items. I am not trying to belabor these points, but in Mr. Ackerman's response, rebuttal, he said that I recommended making the building FEMA compliant, which I did not, I simply pointed out that it is being labeled as a renovation and renovation is not a term used in the Code but substantial improvement is and that is where the valuation test comes into play, and, secondly, the Coastal Erosion Hazard Area regulations are under the purview and jurisdiction of the Zoning Board. They are the Board that administers the law in addition to the Code Enforcement Officer and that does discuss the value, how much the work is, how much renovation or alterations are being conducted is a direct link to whether or not it is a modification or what type of variance that is required. So, I just wanted to point that out so the record is clear.

Mr. McGuirk: I think...

Mr. Ackerman: John, could I speak, John, can I ask...

Mr. McGuirk: I think we are going here in circles, Len, so...

Mr. Ackerman: I know, I want to close this John and I want to speak to Beth for a second. Beth, we had a matter recently where I needed the weekend the talk to the client, but I would like to be in the position to close the hearing so we can move this, having hearings once a month and adjournments, I am three months in to getting started so what I would like to be able to do is close the hearing, it seems like we need to submit a plan, if the client agrees, showing, just so I am clear, no chimney and no barbeque. Is that right? If I get you that with a survey or whatever and it is approved, you can informally approve it, I can save myself two months on moving this project along. We did that, I forgot which one it was Beth, was it Danella or whatever, I cannot call the client now and discuss it with the client unfortunately because Zoom and all this stuff, there is too much going on, he

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has to see a plan, he has to talk to his wife and his architect and whatever but I would like to move these things along.

Ms. Baldwin: That is fine for me. I can write, move forward with the decision without those things removed and it would be a condition of the approval submitting that document, those documents.

Mr. Ackerman: John, are you okay so we can move things along?

Mr. McGuirk: I am okay as long as Beth you know exactly what we want.

Ms. Baldwin: Yes.

Mr. Ackerman: I just want to be clear, so we need to poll the Board, John, is it just the chimney and the barbeque? The exterior chimney, even if they can do a fireplace without a chimney you do not care how they do it.

Mr. McGuirk: I do not care what you do, to be honest with you, on the inside.

Mr. Ackerman: And the barbeque and the bulkhead?

Mr. McGuirk: Jimmy McMullan?

Mr. McMullan: Yes?

Mr. McGuirk: On the bulkhead?

Mr. McMullan: I am fine with the bulkhead as I said it could be a safety issue.

Mr. Ackerman: It is a real safety, okay, so those are the two, Jim, you understand what we are doing here, right Jim?

Mr. McMullan: Jim Taylor.

Mr. Taylor: Yes, yes understood.

Mr. Ackerman: Okay so could I ask that the hearing be closed?

Mr. Sullivan: May I speak first?

Mr. McGuirk: Who is that?

Mr. Sullivan: Robert Sullivan.

Mr. McGuirk: Okay Robert.

Mr. Sullivan: With the amount of work being done on this structure and they keep bringing it up to Code, are the exterior walls going to go from a two by four to a two by six? I do not have a full set of plans to know what they are renovating on the exterior walls.

Mr. McMullan: Mr. Sullivan, that was one of my concerns, this is Jim McMullan, that was one of my concerns and they have stated that their intention is to leave the existing framing the way it is except for enlarging of the maybe window sizes or door openings but that will fall on the Code Enforcement Officer to make sure that that happens if that is what we deem, we want to make sure that that happens.

Mr. Sullivan: Because I have the feeling that the way they are showing the roof is coming off, they are going to reconstruct it, the ceiling is coming out, they are going to reconstruct it, the floor is coming out in a lot of places to get down to the pilings in like ten places. I just want to make sure they were not tearing the building down.

Mr. McMullan: As far as I am...

Mr. McGuirk: I do not think they can tear the building down.

Mr. McMullan: Once that building gets torn down, then you cannot bring it back, that is my understanding of the way the Code Enforcement is going to look at it as well as I think Billy Hajek.

Mr. Sullivan: My concern, as I said, once they gut the inside to do the work in the basement, if the building should collapse, it cannot be rebuilt, I would like to see that stated.

Mr. Ackerman: Wait a minute, wait a minute.

Mr. Sullivan: I know what is going to happen here, Lenny. There is nothing to hold the walls up.

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Mr. McGuirk: Lenny, it is not you and Mr. Sullivan.

Mr. Ackerman: I know but you are getting into the weeds here.

Mr. McGuirk: I think we should close the hearing.

Mr. O'Connell: I have a question.

Mr. McGuirk: I would like to make a motion to close the hearing.

Mr. Sullivan: I object until we get answers on the construction method in detail.

Mr. O'Connell: Mr. Chairman, I have a question?

Mr. McGuirk: Go ahead. So, this question is for Mr. Taylor if we are considering allowing the bulkhead as Jim said, what is, I do not have the plans open, Mr. Taylor, what is the height and width and length of the bulkhead so that we have, because that is going to have to go in the determination, then, right?

Mr. Taylor: I can give you, so the height is six feet because it is lining up with the top of the existing fence and I can just tell you the number straight off the screen but it will put these in the building permit application, the width is four feet because that is the width of the stair from the edge of the fence, and the length is approximately nine feet.

Mr. O'Connell: Okay, thank you, thank you for answering that.

Mr. McGuirk: Joe, you have a question.

Mr. Rose: I just want to make some observations just so that they are on the record if the record is being closed about concerns that I have. I am concerned about the issue of segmentation so I am relying in my assessment of this on the representation that Mr. Ackerman made that the anticipation is that the main dwelling will be intended to be as of right within the context of the zoning. I am concerned about the presence of the cottage as it is perceived from, yes, to the surrounding neighbors, but especially to the beach side so turning the windows, the south side windows into doors is a concern, I have no problem improving the windows and expanding the windows but having them turning them into doors making that an open presence onto the beach at that scale is I think is significant,

and I have a concern about the scale of the awnings and their opened perception as seen from the beach. I just wanted to put those points on the record.

Mr. Ackerman: John, can I...

Mr. McGuirk: Yes, Len?

Mr. Ackerman: Mr. Sullivan, I respect your concern, I respect your observations, I think they are not necessary, however, you are directing your inquiry to the wrong body. When the plans for construction are done, filed with the Building Department, at that point in time, if you object to the issuance of a Building Permit with those plans, you have a remedy to appeal to this Board. The applicant does not have construction drawings, you cannot ask us to give you construction drawings and have you be a second set of eyes to the Building Department. And you also cannot dictate how we are to build this cottage but you have relief as a neighbor and as a citizen to contest the issuance of a building permit and that is where you should be directing your questions or your issues or your objections. We cannot impose upon this Board and then have them substitute their judgment for the Building Department. I do not take issue with anything you say, I cannot answer it, I do not think Jim Taylor can answer, they do not have the detailed construction drawings because we do not do construction drawings until we know we are going to get a permit from, an approval from the ZBA to go to the next step. That is why we cannot price something, that is why we cannot budget something, it is premature and that is why it is always done at the Building Department when we talk about the 50 percent rule, but I have to leave it to the Board to make their decision. I ask that you close the hearing so that we can move forward, we will then discuss with the client if he is prepared his options are to make these changes, eliminate the chimney, eliminate the barbeque or in the alternative, what he can do is leave the cottage just the way it is, the sanitary where it is, leave the cottage without FEMA, and move on and live in it the way it is and that will be his choice to make, however, I would ask that you close the hearing.

Mr. McGuirk: Anybody on the Board have anything to say?

Mr. McMullan: No.

Mr. McGuirk: Okay. I make a motion we close the hearing.

Mr. Humphrey: So move.

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

Mr. Ackerman: Beth, I will be in touch with Beth on Monday.

Lily Pond Equities – 33 Lily Pond Lane – SCTM #301-13-13-11.1

Mr. McGuirk: We have a re-notice for Lily Pond Equities, 33 Lily Pond Lane, so that will not be heard today.

Mr. McGuirk: I have a motion to close the hearing.

Mr. O'Connell: Motion.

Mr. McGuirk: Second?

Mr. Humphrey: Second.

Mr. McGuirk: All in favor?

Mr. Humphrey: Aye.

Mr. Rose: Aye.

Mr. McGuirk: All right, thank you everyone.

continued on next page

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, One Cedar Street, East Hampton, New York, on Friday, November 13, 2020 at 11:00 a.m., or via video-conferencing if necessary, on the following applications and to conduct such other business as may come before the Board. If you would like to participate in the Zoom meeting, contact pbennett@easthamptonvillage.org. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Alerts" tab.

Application of Frederick A. Terry, Jr., SCTM#301-12-4-18.1, for Area Variances from Chapter 278, Zoning, and a Wetlands Permit in accordance with Chapter 163, Freshwater Wetlands, to legalize accessory improvements and landscaping. A wetlands permit in accordance with Section 163-3 and a 61.8 foot variance is requested from Section 278-3.A.(8) to legalize clearing of land and landscaping approximately 63.2 feet from wetlands where a 125 foot setback is required. A wetlands permit in accordance with Section 163-3 and variances of approximately 41 feet and 4 feet are requested from Section 278-3.A.(8) to legalize slate walkways and retaining walls located approximately 109 feet and 146 feet from wetlands where the required setbacks are 150 feet. Variances of approximately 13.4 feet, 12.8 feet, 14 feet, and 15.8

feet are requested from Section 278-3.A.(5)(b) to legalize multiple stone walls, piers and walkways located approximately 6.6 feet, 7.2 feet, 6 feet and 4.2 feet from the side yard lot line where the required setbacks are 20 feet, and any other relief necessary. The subject property is 87,119 square feet in area and is located at 97 Briar Patch Road in Residence District R-160 and contains a scenic easement covering wetlands. This project is classified as a Type II Action in accordance with SEQR. Application of Maidstone Club, Inc., SCTM#301-9-3-10 and 11 and 301-9-4-11 and 17, for a Wetlands Permit, Special Permit and Variances in accordance with Chapter 278, Zoning, and Chapter 163, Freshwater Wetlands, to conduct maintenance activities and to cut vegetation within wetlands and adjacent to wetlands. A Freshwater Wetlands Permit and variances are required in accordance with Chapter 163 and Section 278-3.A.(5) to conduct maintenance activities including but not limited to repair of irrigation and drainage systems, leveling tee boxes, smoothing and grading cart paths, aerating and seeding, regrading and re-sodding damaged areas, cutting phragmites and cutting native and non-native vegetation within wetlands and adjacent to wetlands, and any other relief necessary. A Special Permit is requested in accordance with Section 278-7.D. for alterations to a membership club. The properties combined area is approximately 122.87 acres and are located at 88 Dunemere Lane, 90 Dunemere Lane, 95 Dunemere Lane, and 50

West Dune Lane. The properties are located in Residence Districts R-80 and R-160, in Flood Zone AE (el.10) and adjacent to the East Hampton Village Historic District. This project is classified as an Unlisted Action in accordance with SEQR. Application of 7 West End Road LLC, SCTM#301-15-4-7, for Variances from Chapter 101, Coastal Erosion Hazard Areas, and Chapter 124, Preservation of Dunes, and Chapter 278, Zoning, to make alterations to a legally pre-existing nonconforming building and decking. A variance is requested from Section 278-7.C.(2)(d)[1] to make alterations to a second dwelling/residential use where a residential property is permitted one dwelling/residential use. A Coastal Erosion Hazard Area Permit and Variances are requested in accordance with Sections 101-9.(B) and 101-19 to make alterations to a legally preexisting nonconforming building and decking located seaward of the Coastal Erosion Hazard Area line and situated on a primary dune. Variances of 56.4 feet and 63.1 feet are required from the provisions of Section 124-1.A.(2) and Section 278-3.A.(7) to make alterations to a building located 43.6 feet and decking located 36.9 feet from the 15-foot contour line where the required setbacks are 100 feet. Variances of 100.8 feet and 107.3 feet are required from the provisions of Section 124-1.A.(2) and Section 278-3.A.(7) to make alterations to a building located 49.2 feet from the edge of beach and decking located 42.7 feet from the edge of beach where the required setbacks are 150

feet. Variances of 14 feet and 0.8 feet are required from Section 278-3.A.(4)(a) to make alterations to a building located 36 feet from the side yard lot line and 49.2 feet from the rear yard lot line where the required setbacks are 50 feet, and any other relief necessary. The subject property is 154,772 square feet in area and is located at 7 West End Road in Residence District R-160. The property adjoins the ocean beach and is located in FEMA Flood Zone VE (el. 17), Zone AE (el. 10) and Zone X. This project is classified as a Type II Action in accordance with SEQR. Application of Lily Pond Equities, SCTM#301-13-11.1, for Variances from Chapter 101, Coastal Erosion Hazard Areas, Variances from Chapter 278, Zoning and Variances from Chapter 124, Preservation of Dunes to make alterations and construct additions to an existing single-family residence and construct accessory improvements. A Coastal Erosion Hazard Area Permit and Variances are required in accordance with Sections 101-9.(B) and 101-19. to make alterations to the existing residence, to construct additions and to construct an attached screened porch and accessory improvements located seaward of the Coastal Erosion Hazard Area line. Variances of 36.9 feet and 52 feet are requested from Sections 124-1.A.(1) and (2) and 278-3.A.(7) to make alterations to a residence and construct additions located 63.1 feet from the 15-foot contour line and 98 feet from the edge of beach where the required setbacks are 100 feet and 150 feet. Variances of 36

feet and 53.4 feet are requested from Sections 124-1.A.(1) and (2) and 278-3.A.(7) to construct a screened in porch 64 feet from 15-foot contour line and 96.6 feet from the edge of beach where the required setbacks are 100 feet and 150 feet, and any other relief necessary. The subject property is 76,811 square feet in area and is located at 33 Lily Pond Lane in Residence District R-160. The property adjoins the ocean beach and is located in FEMA Flood Zone VE (el. 17) and Zone X. 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: October 23, 2020 By Order of John L. McGuirk III, Chair, Zoning Board of Appeals, Inc. Village of East Hampton 16-2



FILED
VILLAGE OF EAST HAMPTON, NY
DATE: December 11, 2020
TIME: 2:00 p.m.

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