

Zoning Board of Appeals
January 8, 2021
11:00 a.m.
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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
Brian DeSesa, Attorney on behalf Gary M. Kravetz and
Mariel Creo-Kravetz
Ed Krug, Agent on behalf of Emre G. and Linda Gunalp
Leonard I. Ackerman, Attorney on behalf of Lily Pond Equities
Linda Margolin, Attorney on behalf of Lily Pond Equities
Nick Spadola, Attorney, Ackerman Partners
Brian Matthews, Attorney on behalf of Marjorie Rosen
Jonathan Tarbet, Attorney on behalf of Georgica Road LLC
Jane Maynard, Neighbor of Georgica Road LLC
Michael Sedgwick, Neighbor of Georgica Road LLC
Laurie Wiltshire, Agent on behalf of Daniel Faber and Rachelle Shaw
Jody Gambino, LTV Moderator
Pamela J. Bennett, Village Clerk

Mr. McGuirk: Good morning, welcome to the Zoning Board of Appeals meeting for the Village of East Hampton for Friday, January 8th. Just a little housekeeping before we start the meeting, we will be having, on the fourth Friday of each month, a Work Session, when needed, so if there is something that comes up that we need to discuss after we have closed the hearings, we can, we definitely have the meetings are scheduled but please watch out they may be canceled if we have nothing to discuss at that time.

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MINUTES

Mr. McGuirk: We have the minutes from **December 11, 2020**, do I hear a motion to accept the minutes?

Mr. Humphrey: So moved.

Mr. McGuirk: Can I have a second?

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

DETERMINATION

Brian Bigos – 20 Stratton Square – SCTM #301-1-5-17

Mr. McGuirk: We have two determinations that are on the agenda, in the application of Brian Bigos, 20 Stratton Square, Suffolk County Tax Map number 301-1-5-17 to construct a patio and install a liquid propane tank is denied.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

SEQR DETERMINATION
Maidstone Club, Inc. – 88, 90 and 95 Dunemere Lane and
50 West Dune Lane – SCTM #301-9-3-10 and 11 and
SCTM #301-9-4-11 and 17

Mr. McGuirk: The next application, in the application of the Maidstone Club Incorporated, 88, 90 and 95 Dunemere Lane and 50 West Dune Lane, Suffolk County Tax Map number 301-9-3-10 and 11 and 9-4-11 and 17 to adopt a Negative Declaration.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

DETERMINATION

Maidstone Club, Inc. – 88, 90 and 95 Dunemere Lane and
50 West Dune Lane – SCTM #301-9-3-10 and 11 and
SCTM #301-9-4-11 and 17

Mr. McGuirk: In the application of the Maidstone Club Incorporated, 88, 90 and 95 Dunemere Lane, 50 West Dune Lane, Suffolk County Tax Map numbers 301-9-3-10 and 11 and 9-4-11 and 17 to conduct maintenance and activities to cut vegetation within wetlands and adjacent to the wetlands is granted.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

ADJOURNMENTS

64 WE Acquisition LLC – 64 West End Road – SCTM #301-15-5-3
Eric and Lori Blatstein – 211 Lily Pond Lane – SCTM #301-15-4-12

Mr. McGuirk: Okay, now we are going to move on to the adjournments until February 12, 2021, we have 64 WE Acquisition LLC, 64 West End Road, and we have Eric and Lori Blatstein, 211 Lily Pond Lane.

Ms. Bennett: John, do you want to do a motion and second on those?

Mr. McGuirk: Should we?

Ms. Bennett: I think so.

Mr. McGuirk: Okay, can we have a motion?

Mr. Rose: So moved.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

CONTINUED HEARINGS

Gary M. Kravetz and Mariel Creo-Kravetz – 2 Baiting Hollow Road
SCTM #301-8-10-29.3

Mr. McGuirk: We are going to do the continued hearings now. The first hearing is Gary M. Kravetz at 2 Baiting Hollow Road.

Mr. DeSesa: Good morning Members of the Board, Brian DeSesa, 2462 Main Street, attorney for the applicant. We had submitted to the Board revisions to our previous plan that were before the Board, specifically, we reduced the amount of lot coverage that was previously requested and in doing so, as an effect of that, we reduced our gross floor area. So, we reduced the gross floor area of the house which has an attached garage by 349 square feet so what our position on that now is for the Board's consideration is that with the reduction in the house size, the livable area of the house comes to 6,743 square feet which complies with the gross floor area calculation for the lot, however, with attaching the garage which is 497 square feet, we were over on the allowable GFA. We are asking this Board to consider that variance now in the reduced amount based on the fact that the lot has two front yards and the applicant is trying to not position or build additional structures on the lot. So, the house itself, as you may recall, even last time with the double height foyer and ceilings still would comply with

the GFA but for us attaching the garage. The applicant is prepared to offer a covenant on the property that no other buildings, whether it be principal or accessory structures, would ever be constructed on the lot if the Board were inclined to go in favor of this and in addition the applicant would also file a covenant on the property that the attached garage to the house would never be converted into living space at a future date. So, it allows us to go from two buildings to one building, on a corner lot so this is all, the garage is toward the corner of Buckskill and Baiting Hollow Road, you also have in your record a letter in support from the neighbor to the south based on a review of the project.

Mr. McGuirk: Thanks Brian. Is that all you have?

Mr. DeSesa: Those are the revisions and additional concessions that the applicant is hoping will have the Board look in favor with those two covenants which we would propose to your attorney for review if the Board were inclined to go in that direction.

Mr. McGuirk: Phil, do you want to take us away on this?

Mr. O'Connell: I had a question for Brian. At our previous meeting there was something about a tennis court? What is going on with that? Is the application amended to move the tennis court or is it staying where it is?

Mr. DeSesa: We moved the tennis court, Mr. O'Connell, we moved it closer to Buckskill Road which was away from, we moved it north and slightly east which moved it away from the three adjoining residential lots. It still complies with setbacks and dimensional relief.

Mr. O'Connell: Okay, for some reason I thought that was in front of us also.

Mr. DeSesa: It is not.

Mr. O'Connell: So last time around I think we were pretty clear that both, who is now the Chairman, John McGuirk and myself that if you are constructing a new house that you should build to the Code and there should not be any relief absent a major, some sort of major issue with the lot whether it be geography, the shape, the location, etc., however, I hear what you are saying about covenanting that there be no other buildings, did I get that correct? No pool house, no sheds, nothing else?

Mr. DeSesa: No additional buildings than what is proposed, that is correct, and the house, just to clarify, the house living area does comply with GFA but when we attach the garage, that is what puts it over so we are proposing no additional structures other than what is proposed on the survey before you going forward, and the second part would be a covenant that the attached garage would never be converted into any living space.

Mr. O'Connell: Okay I just see that the proposed pool house which is 18 by 13 which is smaller than the allowable size.

Mr. DeSesa: That is correct, sir.

Mr. O'Connell: Okay. This changes a bit my opinion on this application offering up those covenants so that is where I am, I cannot speak for the rest of the Board. John?

Mr. McGuirk: I kind of like the idea. Joe, do you want to weigh in on this?

Mr. Rose: I have no comment, I agree with the overall sentiments as expressed.

Mr. McGuirk: Jimmy?

Mr. McMullan: I am fine with this. I appreciate the attempt to change it to help get to where the Board liked it, thank you.

Mr. McGuirk: Craig?

Mr. Humphrey: No additional buildings that means additional structures as well?

Mr. DeSesa: That is correct, sir.

Mr. Humphrey: Okay, then I am fine with this.

Mr. McGuirk: Thank you, Brian. A motion to close the hearing?

Mr. Humphrey: So moved.

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

Mr. DeSesa: Thank you very much. Have a good day.

CONTINUED HEARINGS

Emre G. and Linda Gunalp – 149 Main Street – SCTM #301-8-3-18

Mr. McGuirk: Emre and Linda Gunalp at 149 Main Street. I just want to, we did get a letter from the neighbors to the west that no longer have an objection with the application because of the way they have moved the equipment and they took out the generator, I just wanted everyone to know that. Jimmy, do you want to take this out?

Mr. McMullan: Sure, we all received an updated survey showing where they are moving the a/c units, the pool equipment slightly off the property line so they can screen this from the road and from the 1770 House property. They also eliminated the generator from the application so that does not need to be screened or covered. So, with this, I appreciate the applicant making the amendments and I have no problem with this.

Mr. McGuirk: Mr. Rose?

Mr. Rose: I just, the one thing that I see it to persist is the independent, freestanding outdoor shower structure in the setback area which I am not sure I understand why that is necessary. I have no problem with an outdoor shower but I do not see why it could not be attached to the house, the barn structure that is right there, I do not see why it needs to be a separate new structure in the setback area, I am not sure.

Mr. McGuirk: Phil?

Mr. Krug: May I address that?

Mr. McGuirk: Yes please.

Mr. Krug: Ed Krug, 39 Isle of Wight Road for the applicants Linda and Emre Gunalp.

Ms. Bennett: Mr. Krug, let me swear you in.

Mr. Krug: Yes.

Ms. Bennett: Please raise your right hand and state your name and address for the record.

Mr. Krug: Ed Krug, 39 Isle of Wight Road, East Hampton.

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

Mr. Krug: I do.

Ms. Bennett: Thank you.

Mr. Krug: Just to address that question, I mean I do not know if anyone has been to the site but it is quite constrained. If you were to kind of look at the sort of what I call the back of the house near where the equipment is being proposed, that would be kind of a very tight spot to have to put kind of a shower really, it is sort of a nice little tucked away spot on the east side of the barn, and it is actually not a structure, it is really a freestanding shower unit with vegetation and soundproof fencing behind it so it is not actually additional structure, it just felt like it was the most kind of accommodating spot to provide a little bit of space for a shower. It would have been very difficult to try to sneak it in on the other side of the barn which would have been the other logical place to put it.

Mr. Rose: Let me just be clear, I was not suggesting putting it on the other side of the barn or not having it, I do not see why it cannot be tucked up against the barn on the same side where it is, why does it need to be freestanding apart?

Mr. Krug: Oh, in that same spot, is that what you are suggesting?

Mr. McGuirk: I think Mr. Rose, Mr. Rose can speak for himself, would like to see it attached to the building.

Mr. Krug: Okay.

Mr. McGuirk: Is that correct, Joe?

Mr. Rose: Yes, that is correct.

Mr. Krug: So, it is really just a matter of flipping it to the other side of that space is what you are suggesting.

Mr. Rose: Just tucking it up to and attaching it to the barn structure so not that it cannot go into that little area but to have it be out separate, as you say, it is a very tight and constrained location, why not just put it up. Allowing for that shower to exist, the minimum relief that would allow it to exist in that location would be to put it up against the house, against the barn on that same side.

Mr. Krug: Okay. You know if that is the consensus of the Board, as long as we can use that area for the shower and it is just a matter of moving it to the opposite side essentially and putting the shower body itself up against the barn, I am not sure there is an issue with that on our part if that is what the Board would like us to do.

Mr. McGuirk: Craig, do you have anything to add?

Mr. Humphrey: You are going to move it to the east side of the barn, closer?

Mr. Krug: What Mr. Rose has suggested is that we flip it to the barn side of that space...

Mr. Humphrey: I know but it is on the east side.

Mr. McGuirk: On the east side.

Mr. McMullan: Correct.

Mr. Krug: Continues to be on that east side of the barn, yes.

Mr. Humphrey: That is fine, it just opens up some space there, it is nice.

Mr. McGuirk: It is up against, 1770 is a preexisting, nonconforming use in a residential neighborhood, I believe, 1770 originally had an apartment above the garage and then the Village ZBA allowed them to become part of a cottage so it is a full-on cottage now that did not exist for years against this residential lot, and then the ZBA gave 1770 relief over the years to allow outside dining so I do not think the shower is going to affect the neighbors at all, I do not think the a/c units and the mechanicals are going to affect any of the neighbors also. Anybody else have anything? Phil?

Mr. O'Connell: I am in favor of the application but what distinguishes this in my mind is what John said, we have a preexisting, nonconforming inn, restaurant, and outside dining that is a, I do not want to say a noisy use but an intense use and it is my opinion that the blower unit, the a/c units, and the pool equipment will be negligible compared to those sounds emanating from the inn and restaurant at the 1770 House.

Mr. McGuirk: And Montauk Highway.

Mr. O'Connell: And I am fine with the shower being moved against the barn.

Mr. Krug: Okay.

Mr. McGuirk: So, we are all set?

Mr. Krug: Mr. Chair, can I make one more comment please? I did have an opportunity to speak to Mr. Schwerin who is the neighbor to the west, he did reach out and talk to me, you know we did, as you noted, make a decision to eliminate the generator at this point in time kind of as a neighborly gesture. I think one of the things that maybe the neighbors were not entirely aware of that the as of right location for that generator would have actually placed it even closer to his property. You know there is some possibility down the line that Mr. and Mrs. Gunalp may want to apply for a variance to have that generator put in but that will be sort of a future application down the line and we would probably come back with a suggested location closer to where the other equipment is now being proposed so just a little bit of perspective on that issue.

Mr. McGuirk: Okay, thank you. We take them one at a time.

Mr. Krug: I understand.

Mr. McGuirk: We will look at the new application when it is submitted. Thank you. A motion to close the hearing.

Mr. Rose: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

ORIGINAL HEARING

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

Mr. McGuirk: Now moving onto the hearings, Pam?

Ms. Bennett: Application of Lily Pond Equities, SCTM#301-13-13-11.1, 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, the nearest being 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. A 1.6-foot variance is requested from Section 278-3.A.(4)(a) to construct a second story addition 32.4 feet from the side yard lot line where the required setback is 34 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.

Mr. McGuirk: Thanks Pam. Mr. Ackerman?

Mr. Ackerman: Good morning Mr. Chairman, Members of the Board, my colleague Linda Margolin is on board, she is going to explain...[inaudible]...why this...[inaudible]...with the 2005 application that was granted by this Board with respect to the addition to the east. I would just like to point out to you that...[inaudible]...GFA variance essentially a Coastal Erosion Variance to make an expansion under the 24...[inaudible]...determining an application within a coastal erosion. There are...[inaudible]...contour variances and beach grass variances arising from the fact this is a preexisting, nonconforming structure...[inaudible]...mitigation, this application...[inaudible]...reduce coverage...

Mr. O'Connell: I am having a hard time hearing Lenny, is anyone else having a hard time?

Mr. Rose: Yes.

Mrs. Bennett: Yes.

Mr. O'Connell: It has just been breaking up.

Mr. Ackerman: Is it better, it is my neighborhood. With respect to mitigation, we are reducing coverage to make it conforming, proposing to bring a scenic easement, vegetation plan, removing lights on the beach that was part of the 2019 application, C and R with respect to the sunroom. So, it

would not be converted...[inaudible]. Linda is going to take you through and put on the screen the explanation of how we believe we comply with the...[inaudible]...percent rule. Linda?

Ms. Margolin: Members of the Zoning Board, good morning, my name is Linda Margolin, I am an attorney, I am of Counsel to Mr. Ackerman's firm. At this point Nick Spadola is going to assist us by sharing some documents up on the screen so that I can take you through our analysis of what this Board approved in 2005 and what we are asking you to approve now. The reason I am doing this is because we have gone back over the analysis that is implicit in the notations on the survey that was part of this application and we realized that that analysis was not correct. So are not asking you for anything other than the physical alterations that are proposed in the pending application but I am going to give you an analysis that is consistent with the way the Board handled this application, an application for expansion in 2005. So, in 2005 the starting point for expansion of the existing dwelling was 3,491 square feet. That consisted of the house and what was described as an integral brick terrace. The 24.9 percent of that number would be 869.26 feet. How did we get to that number in 2005? There was a letter that was part of the application from Thom Lawrence and he explained that when you took the square footage of the existing house as a preexisting, nonconforming structure and the brick terrace which he described as an integral part of the house; the total was 3,491 square feet. If you look at the Zoning Board of Appeals' decision and we can pull that up for you if you want to see it but right now, I would just like to take you through it, the Zoning Board of Appeals accepted this analysis and they also accepted Thom Lawrence's analysis that said to the extent that any portion of the expanded living space would go where the brick terrace existed, it was not an expansion under your CEHA law because it did not increase the footprint. So, what the Board allowed was a two-story 1,804 square foot addition abutting the house to the east. In other words, they allowed a footprint addition of approximately 900 square feet to the east of the existing house. Nick, for a moment, could you put up the diagram that was prepared by the architects for us. So, this is a schematic that shows you what was approved in 2005, what actually exists on the site, and what we are asking for now. The bottom drawing shows what exists right now. There is a slight discrepancy in the measurements recited in Mr. Lawrence's letter and the way we have actually measured what is there but for the purposes of this application, we are using the smaller numbers that were in the application in 2005 where he said the brick patio was 916 square feet although when we

measure it today, it is 960, although we believe it is exactly the same structure, and there is also a slight discrepancy with respect to the house but we are using the smaller numbers which total 3,491 square feet. If you look to the middle drawing, what you will see is that the 2005 proposal that was approved essentially squared off the house and overlaid almost all of the brick terrace that existed. So, the Zoning Board did not count, as an expansion, the portion that overlaid the brick terrace but they counted the remainder. I do not have access to that drawing at the moment but we can tell with a two-story addition of 1,804 feet that the footprint was approximately 900 square feet. If we go to the top, which is what we are asking for now, what you will see is that the proposed expansion, including the screened porch which is outlined in green...

Mr. McGuirk: Linda?

Ms. Margolin: Covers a small part of the brick terrace. Yes, Mr. Chair?

Mr. McGuirk: That is a screened porch, right? That is not...

Ms. Margolin: The screened porch is what is outlined in green.

Mr. McGuirk: Okay, thank you.

Ms. Margolin: And the conditioned space expansion is to the west of it, outlined in like that aqua-shade, so you will see a small portion of the conditioned space expansion overlays the brick patio that exists and the amount as computed by the architect, I asked them to do it for today's presentation, is 110 square feet. So, if we could go back now, Nick, to my sheet showing how we analyzed the application, if I turn to the bottom half of the sheet now, the starting point for expansion is still the same number 3,491 square feet and 24.9 percent would be 869.26 feet. The architectural plans say that the proposed addition consists of 549 square feet of enclosed conditioned space and 447 square feet for a screened porch for a total of 996 square feet, but as we just showed you on the diagram, 110 square feet of this addition overlays the footprint of the brick patio so that the actual expansion under CEHA is only 896 square feet. And now I turn to the last paragraph, somewhere in this process, before the actual drawings were prepared, there was a mistake in the calculation, we cannot exactly track it down but what we are proposing to you turns out to be 25.7 percent of 3,491 square feet, not 24.9. So, we are asking if you would consider approving

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this as it stands right now without the necessity of re-drawing the plans but if the Board is going to require us that we come in at exactly at 24.9 percent, then we could re-draw the plans, we think that means removing I think it is about, it looks like 27 square feet.

Mr. McGuirk: Okay, is that your presentation?

Ms. Margolin: Yes. I am prepared to take questions; I know it is a little bit complicated.

Mr. McGuirk: Billy, I am going to come to you right now, is that okay?

Mr. Hajek: Good morning Members of the Board, Billy Hajek on behalf of the Village. I am just trying to, I think I understand but I am not 100 percent clear on, it was my impression that the house addition was 25 percent, was equated to a, just less than 25 percent expansion, and the accessory improvements that were proposed, accumulatively, including the screened in porch, was just less than 25 percent. Is that, am I incorrect in assuming that?

Ms. Margolin: Those numbers are the way it was analyzed on the survey but when I went back and looked at the way that the Board actually treated the 2005 application, it seemed that the way it was being analyzed in the survey was not consistent because the survey separately analyzed the square footage attributable to the screen porch and attributable to the conditioned space that was being added to the house but that seemed to be inconsistent with what is required under CEHA which addresses a footprint, not whether the space is conditioned or not, and when we looked at the footprint that the Board found represented the footprint of the principal dwelling, that was the 3,491 square feet, it made more sense to analyze this application with that as our starting point because that is what the Board approved in 2005, that is the way they treated this house, which basically is still the same house, under this law, which remains the same as it was in 2005, so I realize that the presentation made per the survey, and I understand that your memo looked to that Mr. Hajek to understand what was being done, but we do not think that is a sensible way to look at it with respect, with respect to the surveyor. I understand what they did but it is not consistent with the way the Board treated this house in 2005.

Mr. Ackerman: Linda, would you explain why we are relying on 2005.

Ms. Margolin: Well as I am sure the Zoning Board of Appeals' Counsel would advise you, there is a principal of so-called administrative res judicata that is to say that Zoning Board of Appeals are not supposed to depart from prior decisions unless there is a change in circumstances that justifies it. Now we are not making the same application that we made in 2005, we could not make it because the Village now restricts gross floor area in the way they did not in 2005. In 2005, we would have been entitled to a bigger house that we are no longer entitled to without a GFA variance but the thing that remains the same is the law and how the Board analyzed and accepted the analysis of what the existing structure was as the starting point for a CEHA expansion, and that is the point that we think that this Board essentially should and ought to and is legally required to start from. The same place it started from in 2005 because neither the law has changed nor has the house changed.

Mr. Hajek: So, it is your opinion that or I guess interpretation...

Ms. Margolin: I do not venture an opinion; I am not supposed to do that.

Mr. Hajek: So, you are saying that the Coastal Erosion Hazard Area law as applied by the Zoning Board in 2005 counted anything that was attached to the building as part of the ground area coverage?

Ms. Margolin: It did. It conceded Mr. Lawrence's letter, Nick, could you put up Thom Lawrence's letter. This is a portion of Thom Lawrence's letter that accompanied the application and he says the 1989 footprint, and this was his analysis of what was preexisting, nonconforming under C.O.'s that the house had, was, you can see, 3,491 square feet consisting of a house that he measured as 2,575 and a 916 square foot integrally impertinent oceanfront patio. So that is how he got to the 3,491 square foot number and if you analyze the Zoning Board of Appeals' decision, and, again, we can put up, this is the first page, but if we go to page five which is the next page, the part that is highlighted, you can see that they granted two different kinds of construction additions to the house. One portion is this 1,684 that goes in place of the existing oceanfront patio, they did not count that as part of the percentage, it was urged in another part of Mr. Lawrence's letter that you could not say it was an expansion, if it went over the existing footprint, but then the two-story addition abutting the existing dwelling and patio to the east is measured as 1,804 square feet. I do not have those plans but I think it is fair to infer from that that the footprint would have been 50 percent of that

approximately 900 square feet, and that is what the Board did in 2005. So, they did not count anything that was going to be, they counted the existing base for measuring an expansion under CEHA as 3,491, if you were building over that existing space, it did not count as an expansion, but if you were extending the footprint beyond it, it did, and the addition clocked in at, to the best of our knowledge, at 25 percent.

Mr. Hajek: So, based on that rationale, would you not then include the walkways, the steps, and the patios that are proposed to be attached to the building?

Ms. Margolin: I do not think so because, well, we do not have Thom Lawrence's justification for where he says it is an integral part of the house, these other things I think are not integral.

Mr. Hajek: I do not know about that. It seems like you are, it seems like you would have the benefit of including an at grade brick patio which my understanding is that it is set in sand but then you would be adding steps and walkways and such that do not count. You are like double-counting, I do not know, I am not really sure.

Ms. Margolin: I understand that this is a different analysis than the one that was presented in the survey, I do understand that but the way I understand the analysis that was presented before, it said basically the screen porch should be measured as an expansion of non-building coverage. Is that the way you understood it, Mr. Hajek?

Mr. Hajek: I am not sure, not exactly...

Ms. Margolin: But if we leave all the, what is the right word, if we leave all the terminology behind and look at the physical space that we are proposing to add now as compared to what the Board allowed in 2005, essentially using the same yard stick that if it fell under 25 percent, it was something that the Board was, stood ready to approve. You can see that we are actually adding less. In 2005, we wound up with a total footprint of 4,361 square feet. Today, with the sunroom, what we are proposing is 3,588 square feet.

Mr. Hajek: And cumulatively that is 25.4.

Ms. Margolin: It is 25.7 percent because someone made a mistake somewhere along the line.

Mr. Hajek: But that basis for the expansion that is including the brick patio.

Ms. Margolin: Yes, it is. It is including the brick patio because that is what the Board did in 2005.

Mr. Hajek: Now I understand what you are saying, okay.

Mr. O'Connell: I have a comment.

Mr. McGuirk: Go ahead.

Mr. O'Connell: I understand what you are saying, Linda, about res judicata but the Board relied on Thom Lawrence's interpretation, and what I am hearing somewhat is that perhaps his interpretation was incorrect so as the Board moves forward and learns and the interpretation of the CEHA law changes, do we not have to take that into account?

Ms. Margolin: No, I think that with respect to this house and this application, the Board, it is not what Mr. Lawrence said that matters, it is the fact that the Board accepted it that matters. The basis of the Board's grant of the approval in 2005 was accepting that the idea that the starting point for the footprint was 3,491 and the house has not changed and the law has not changed. So, this Board, with respect, this Board is constrained by its earlier decision to have a starting point of 3,491. We do not have a different house, we do not have a different law, there is no changed circumstance.

Mr. O'Connell: Even if we found his interpretation to be incorrect.

Ms. Margolin: Even if you disagreed with the Board's interpretation in 2005.

Mr. O'Connell: Not the Board, the Board based their decision on Thom Lawrence's interpretation.

Ms. Margolin: Well, it was the Board that was the arbiter of how it was going to be determined, not Mr. Lawrence.

Mr. McGuirk: We are talking 27 square feet here, right?

Mr. O'Connell: No.

Mr. Hajek: Not necessarily.

Mr. McGuirk: I think we need to do our numbers, Billy.

Mr. Rose: Mr. Chairman, I think we are going to need, I follow the argument that is being made by the applicant's attorney, I think we are going to need to have this discussion with our own Counsel in terms of what the constraints are. The argument is certainly made clearly in terms of what the precedent is, we are going to need to understand and follow and understand its implications ourselves. Can I ask a follow-up question in regard to the 2005 application?

Ms. Margolin: Sure.

Mr. Rose: The 2005 application was made, there was an approval granted, but it was never acted on, correct?

Ms. Margolin: Correct.

Mr. Rose: If we follow the history, how do we, can you proceed with what happened in 2005.

Mr. Ackerman: I will respond. It was acted on. There were a series of building permits were pulled, however, by the time all the architectural plans were completed, it was fast approaching the economic instability of the recession that started in 2007, 2008 and the client, because of the sunset provisions in coastal erosion, had to complete this project within one year and was unable to do that. So, as you may know, Mr. Rose, we have litigation pending with the Village with respect to the prior application in 2019 in which we sought to build a new house and relocate that house considerably to the rear of this property albeit maintain an ocean view. That application was denied four to one on the grounds that there was no precedent for building a new house within coastal erosion and we were instructed by the Board to pursue the 24.9 percent application which is what we have before you. With respect to adjourning the application, we have no issue with that of course. Billy needs an opportunity to review this and we

will submit to you a revised plan bringing the total proposed addition including the screened porch to within the 24.9 percent number and if you think this is an opportunity for us to have a Work Session to discuss it, we would certainly welcome participating in a Work Session after we have submitted a revised plan and a memorandum setting forth all of our arguments.

Mr. McGuirk: Also Mr. Ackerman I think that we need, we have sent this out to the Village Engineer to get a more detailed construction protocol just so we are waiting on Drew Bennett to get back to us also.

Mr. Ackerman: I did not know that. I did not see that in the file. Okay, sure, absolutely.

Mr. McGuirk: Billy, you reached out to him before the holidays, right?

Mr. Hajek: Yes.

Mr. Ackerman: Okay.

Mr. McGuirk: I think we need to adjourn this until the Work Session...

Ms. Baldwin: No, it will be, sorry, you need to adjourn it until the next public hearing night, not the Work Session.

Mr. McGuirk: Okay, February 12th.

Mr. Ackerman: Just for clarification, if there is going to be a Work Session, are we going to be allowed to participate in the Work Session.

Ms. Baldwin: The Work Session will not be on this application. This application will continue on through a Public Hearing, not Work Session. Work Session days are for when Public Hearings have been closed and the Board wants to discuss an application amongst themselves to make a determination.

Mr. Ackerman: Oh okay, so Beth is it going to be the same rules as in the Town where applicants do not participate, they just observe...

Ms. Baldwin: Correct.

Mr. Ackerman: But they will be open meetings?

Ms. Baldwin: Yes, it will comply with the Open Meetings Law.

Mr. Ackerman: Will we get notice of the Work Session so that we can watch them? Presumably they will be on Zoom, right?

Ms. Baldwin: They will be on Zoom, they will be on the agenda, whatever applications the Board would discuss or make determinations on would be on the agenda.

Mr. Ackerman: I see, okay, good, I appreciate that clarification.

Mr. Hajek: Len, can I ask one additional question?

Mr. Ackerman: Of course, Billy.

Mr. Hajek: I could not, you were breaking up earlier on in your initial presentation but I heard something about the lights and the fencing and the scenic easement. Can you just reiterate what you...

Mr. Ackerman: In our papers the scenic easement that is proposed as shown on the survey, the reduction of coverage to make it conforming, the buffer, that is all in what has been proposed in the present application. The removal of the lights on the beach which has been an issue in the last application as well and the C. and R. for the sunroom.

Mr. Hajek: Okay, thank you.

Mr. Humphrey: Wait, wait, what just happened to the lights now? [inaudible]...I mean in the next meeting?

Mr. Ackerman: After it is closed, after the hearing is closed that will be the condition of the determination if in fact the application is granted.

Mr. McGuirk: Mr. Ackerman, you also talk about re-vegetation.

Mr. Ackerman: Yes, there is a re-veg plan also in the file, right.

Mr. Rose: Mr. Chairman, I just ask with regard to the things that are in violation, egregious violation that are not part of the application for relief, I am not sure I understand why the applicant is waiting to cure the...

Mr. Ackerman: They are pending in litigation over the 2019 application.

Mr. Rose: We will discuss this in future sessions but let me make sure I have the question out which is so is the litigation tied to permitting the lighting and fencing on the beach? If it is not, why is that persisting?

Mr. McGuirk: Beth, could you please.

Ms. Baldwin: I do not remember off the top of my head but I do not think the lights were tied to the prior determination, I do not think they were included as part of the application the last time.

Mr. Ackerman: That is correct.

Mr. Rose: Why are they still there?

Mr. Ackerman: Our position is is that they are preexisting, nonconforming and we are offering as mitigation to remove them.

Mr. Rose: Preexisting, nonconforming as of when?

Mr. Ackerman: Well, as of when? Presumably before zoning.

Mr. Rose: Really? Okay, it would be good to have information submitted as to when those...

Mr. Ackerman: But we are removing those if you grant relief. If you do not grant relief, then we litigate with you again, we will fight that battle at that time and that is how you eliminate these, we are eliminating all these violations, we were eliminating them in our proposal in 2019 and that application was denied so now pending our Article 78 on the 2019 application, all the violations are stayed, the same thing will happen here.

Mr. Rose: You have asserted, I just want to make sure I want to understand what is being claimed. The assertion is that the lighting and fencing in the dune is preexisting, nonconforming prior to Zoning?

Mr. Ackerman: I am not sure that is correct, I have to go back and look at what...

Mr. Rose: All I am requesting is that we have submitted information regarding what the status is of these different aspects. There is obviously a lot of history here.

Mr. Ackerman: There is a lot of history.

Mr. Rose: Let me finish please. Ms. Margolin made some references to some part of the history; I think it is important as we look at this as we understand and discuss it that we understand all the history. One of the things that is important is that we have facts regarding each of the components here because that is going to have to govern how we discuss this. So, to the extent that there is any evidence indicating that there is preexisting, nonconforming violations here would be...

Mr. Ackerman: Let me ask Linda and Nick. Nick, are there violations asserted of record with respect to the lights? Is there a violation asserted?

Mr. Spadola: I am going to have to check. I am not sure if Ken...

Mr. Ackerman: I do not believe there are.

Mr. Spadola: I just know that the lights right now they are not germane to this application other than the fact that we are offering their removal as mitigation.

Ms. Margolin: Mr. Rose, I think what happened and I am relying on memory is that the existence of the lights was not flagged by a violation issued by the Village but it was something that came up during the course of preparing the 2019 application and rather than fighting over whether or not they were preexisting, nonconforming which is what the applicants believe, the property owners believe, we simply offered to remove them, and we continue to offer to remove them as part of the current application.

Ms. Baldwin: I just think that looking at Billy's memo there is a review of the notice of violations and it says that the owner was given a notice of violation in November of 2017 which included among other things the installation of fencing and lighting within the dune setback.

Ms. Margolin: Oh, I stand corrected then.

Ms. Baldwin: And in that letter, that notice of violation was re-issued it looks like on July 8, 2020.

Mr. Ackerman: Correct.

Mr. McGuirk: We will reconvene this on the...

Mr. O'Connell: John, I had some stuff that I wanted to say.

Mr. McGuirk: Go ahead.

Mr. O'Connell: And we should probably see if anybody from the public has anything to say. I do have some current concerns about changing the character of the neighborhood because it will be significantly changing the dunescape. I have concerns about whether it be, although it is not considered new construction, expansion in the Coastal Erosion Hazard Area. The property is pretty intensely developed already. I have significant environmental concerns with digging up the dune. The dunes are fragile and environmentally fragile. And in the letters and plans submitted by the applicant seem to flipflop between labeling this a sunporch and a screened in porch. If we do move forward, I ask that it be confirmed that this is a screened in porch, not a sunroom or sunporch, that there will be no half walls surrounding the porch as it is shown on the plans and it will be screened from floor to ceiling, there will be no heat, no radiant heat, no a/c, and open to the elements other than the screens. In addition, I would ask the applicant that it not be enclosed and they will not seek a variance to enclose it as so often happens. I am not 100 percent sure about this last one but I think I might be more comfortable if it was built on a slab as opposed to digging deeply into the dune because you are not disturbing the dune as much but I am sure that we will hear from the Village Engineer. Those are my comments.

Mr. McGuirk: Thanks Phil.

Mr. Rose: Mr. Chair, if I could just one last request for the record. I assume we are continuing this without prejudice but I have one question. Based on the rationale or at least one of the rationales for the variance, there is a reference as to how the space will be used but the plans at least that I

reviewed do not include any floor plans any internal floor plans for the integration of these new expansion parts into the plan of the house itself so it is just voids, and if I could see a more detailed floor plan of the house itself.

Mr. Spadola: Revised plans were submitted in November.

Mr. McGuirk: Joe, you should have, there is a whole...

Mr. Rose: As I said, it may be that in the vast amount of paper I have missed something.

Mr. McGuirk: There is a great book. Any comments from the public?

Mr. Gambino: Yes, we have one caller on the line.

Mr. Matthews: I have a comment as well.

Mr. McGuirk: Okay Brian.

Mr. Gambino: Caller, you are on the air.

Mrs. Maynard: Hello?

Mr. Gambino: Yes, you are on.

Mr. McGuirk: Please state your name and your address.

Mrs. Maynard: Jane Maynard, a resident of East Hampton for 46 and one-half years trying to call in.

Mr. Gambino: You are on the line.

Mrs. Bennett: Can you hear us, Mrs. Maynard?

Mr. McGuirk: Brian?

Mr. Matthews: Yes, I just have a couple of comments very quickly if the Board can hear me okay. Brian Matthews, Matthews, Kirst and Cooley, 241 Pantigo Road, East Hampton, we represent Jeffrey and Marjorie Rosen who are the owners of 41 Lily Pond Lane which lies just to the north of the

subject property and it is important to note, and I know it is in the file and the Board knows that, the 33 Lily Pond property takes access over our client's property in order to get in and out. As the Board is well aware, we appeared in opposition to the prior application which was denied by the Board and as has been mentioned is presently in litigation which our clients are apart of. We share, I can cut out a lot of what I was going to say probably because some of the new information that has come out and some of the additional review that needs to be done but in sum and substance, I think we share some of the Board's concerns that have been expressed. Just because there was an application in 2005 that was approved, there is a reason why Coastal Erosion permits have a one year shelf life, there is constant increase in knowledge and updating of information about how and best means and ways to go about protecting natural resources and particularly the dune coastal erosion areas so simply because this application is more in line with what was granted 15 years ago, that does not automatically mean, as I know the Board knows that it should get approved then just because this is substantially scaled back from what was denied, likewise does not mean it should get approved, I think that speaks more to how massive and out of character the prior application was but we share concerns about the overall coverage numbers, we share concerns about the maxed out Coastal Erosion coverage, they share the concerns that seems to be raised about this sunroom or sunporch, unfortunately history shows here that on this property there is, much like the tennis house I can just touch base on in a minute that once approvals are granted and permits are granted, there is the high likelihood or every reason to believe at least that this sunporch will at some point be re-purposed and converted into habitable space without any Village review or approval. When we were talking about, I believe it was Mr. Humphrey was talking about violations regarding the fencing and the lights in the dune, you know the other major violation here that has been going on for the better part of 30 to 40 years has been the Village's attempts to cure the expansion both in terms of size and use of this tennis house. Nothing has seemed to work, not litigation, not conditions of approval so it somewhat begs the question of whether or not a different approach here is warranted of corrective action being taken and signed off on prior to any further approvals being considered and certainly granted. And then they also understandably share real concerns about the impact on Tides Turn Lane itself which is where they all access from, the potential impact on that, their property is recognized in the application, recognized in the Bulgin's protocol, and so they would like to have, we have begun these discussions with Mr. Ackerman to try to make sure that they have the ability to respond

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to that protocol to address their concerns, I am glad to hear that this is going to be continued over, that we were going to make that same request but I just wanted to, I thought it was important to get their concerns out for the Board to review and as this application goes forward, we can review what is submitted and put our concerns in front of the Board in written fashion and give everybody a chance to take them into consideration and to respond.

Mr. McGuirk: Thanks Brian. We will be going to February 12th.

Ms. Baldwin: I think the caller is back.

Mr. McGuirk: Ms. Maynard?

Mrs. Maynard: Am I unmuted now?

Mr. Gambino: Yes.

Mrs. Maynard: Can you hear me?

Mr. McGuirk: Yes ma'am.

Mrs. Maynard: I have been...[inaudible]...with my husband, Walter Maynard...

Ms. Bennett: Wait, this is Pam Bennett.

Mrs. Maynard: Hi Pam. I am just calling to make a comment and a question.

Ms. Bennett: Hi, let me swear you in.

Mrs. Maynard: How do I do that?

Ms. Bennett: Please raise your right hand and state your name and address for the record.

Mrs. Maynard: Jane Emerson Maynard a resident of the East Hampton Village with my husband Walter Maynard Jr. for the last 46 plus years.

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

Mrs. Maynard: I will try my best, yes.

Ms. Bennett: Okay good.

Mrs. Maynard: I have been listening very intently to educate myself on what goes on at the Village meetings which I attended for about two years and I had Mr. Walbridge, you know the owner of the Walbridge Company, representing me at each meeting. What I was trying to do, as you may recall I do know, I was trying to do a subdivision on a 6.7-acre lot into two lots of three plus acres, and I realize that one has to go through a lot of stuff in order to get any approval. I kind of gave up on it when I went over the time limit on actually activating the whole thing and then my husband got very sick so I have not done anything about it but just for future reference, I would to be able to go back to that at some point, not right now.

Ms. Bennett: Mrs. Maynard?

Mrs. Maynard: I know, off the subject. I am 35 Georgica Road that I was speaking about.

Ms. Bennett: Just wait, we are on another hearing, we are not on that application yet.

Mrs. Maynard: I have one comment, you were off a few acres, when you subtracted 110 from the 996 you came out with 986 and you should have come out with 886 on the square feet. That is just a comment I made on the last subject that you were addressing, I did the arithmetic.

Mrs. Bennett: Okay, thank you.

Mr. McGuirk: Thanks Mrs. Maynard.

Mrs. Maynard: Thank you very much and I can apply, I am sorry to have interrupted your meeting, I can apply and come to the next meeting, Mr. Ackerman has been my lawyer in the past so perhaps he can represent me on this one again. What do I do? Do I have to apply in person or do I have to send a written application to get on your agenda?

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Mr. McGuirk: You have to reach out to Mr. Ackerman and he can guide you through the process.

Mrs. Maynard: Okay, sounds good, and thank you and I apologize for interrupting.

Mr. McGuirk: Be safe, thank you. Okay, we are to February 12th.

ORIGINAL HEARING
Georgica Road LLC – 39 Georgica Road – SCTM #301-8-12-11.1

Mr. McGuirk: Pam, do you want to move onto the...

Ms. Bennett: Sure. Application of Georgica Road LLC, SCTM#301-8-12-11.1, for a Variance from Chapter 278, Zoning, to permit a residence that exceeds allowable gross floor area to remain on a parcel of land that will be reduced in size. A 1,422 square foot gross floor area variance is required from Section 278-3.A.(13)(a) to allow an existing 11,550 square foot residence to remain on a parcel of land that will be permitted 9,628 square feet of principal building gross floor area, and any other relief necessary. The pending lot line modification with property identified as 39 Georgica Road will reduce the size of the subject property from 156,233 square feet to 140,933 square feet. The subject property is located at 47 Georgica Road and is in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Do we have the applicant?

Mr. Tarbet: Hi, Jon Tarbet, Tarbet and Lester for the applicant. Essentially it is two applicants, it is 39 Georgica Road and 47 Georgica Road. We are before your Board today because we went to the Planning Board requesting a lot line modification and if you are able to look at some of the submitted materials, can everybody hear me again?

Mr. McGuirk: We can.

Mr. Tarbet: So, we went to the Planning Board in order to request a lot line modification which if you are able to look at some of the submitted materials you will see that 39 Georgica suffers from being an incredibly, irregularly shaped lot. We did approach the owner of 47 Georgica Road which is

actually an interesting property in the sense it is not really visible from any public road, it is halfway between Baiting Hollow and Georgica, it gets access from Georgica down a very long driveway, but we were able to reach out to that neighbor who benefits in some ways from also an irregularly shaped property; he has a rectangle that is relatively useless to the property. It really looks as though, if you were to look at an aerial photograph, that it belongs to 39 Georgica which is my client. So, we approached them thinking a lot line modification to smooth out the two property lines, and, Billy, we actually thought we did not need Zoning Board until Billy Hajek correctly noted that while the Lot Line Modification would actually make 39 Georgica more conforming and that the garage that exists would now meet setbacks, the end result of transferring land from 47 Georgica to 39 Georgica would result in the house at 47 Georgica being too large as with regard to gross floor area. So, we then made application to your Board seeking to have a GFA variance for 47 Georgica. Of course, 47 Georgica is not changing at all, the house will remain exactly the same, it is just that we are taking that little rectangle off the back of their property and applying it to 39 Georgica and the Planning Board did write a letter to your Board saying that they are supportive of the application and that is how we got to you today.

Mr. McGuirk: Yes, we did get a letter from Ken Wessberg, Planning Board Chairman, they did approve of this. Billy, you can review this first for us, Billy?

Mr. Hajek: Oh, I am sorry, I misunderstood. I prepared a report for the Board if you have any specific questions about it, I am happy to try to answer them. Generally speaking, the lot line modification that is proposed herein is consistent with the policies of the subdivision regulations, it makes more uniformed shaped parcels so in general that is a positive. In terms of the gross floor area variance, I do not have an opinion on that, it is an existing building, the lot is becoming smaller, they are not proposing any new construction so it is there and it is what it is but in terms of what is triggering that variance, the lot line modification, I view that as a benefit. So, if you have any questions for me, I am happy to try to answer them.

Mr. McGuirk: I do not have any questions at all. Would any of the Board Members like to speak?

Mr. McMullan: No, I am good.

Mr. Humphrey: It is helpful to hear Billy's opinion on this because it is a bit complicated and if he is willing to accept this subdivision, it looked to me like one of the properties is going to become less conforming and we are not in the business of making things less conforming but apparently that is not correct.

Mr. Rose: It seems to make a great deal of sense. Let me just ask the question, is there any potentially adverse implication from this? Everything here seems to make a great deal of sense, just in terms of the geometry and the regulatory impact. Is there any issue, other than rationalizing the layout of the site, is there any implication that flows from this?

Mr. Hajek: Well, I guess the implication would be that the parcel fronting on Georgica Road becomes larger by 15,000 square feet which means they have additional coverage, it makes their lot more buildable in terms of adding coverage and adding allowable gross floor area. One of the other actual benefits though of this is that it makes the existing garage/apartment building on that parcel conforming to setbacks.

Mr. Rose: Understood.

Mr. McGuirk: Anybody in the audience or on line?

Mrs. Bennett: I think there is.

Mr. Gambino: Yes, we have the same caller on the line.

Mr. Sedgwick: Can you guys see me or hear me?

Ms. Bennett: Yes. Let me swear you in. Please raise your right hand and state your name and address for the record.

Mr. Sedgwick: Mitchel Sedgwick, 49 Georgica Road.

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

Mr. Sedgwick: I do.

Ms. Bennett: Thank you.

Mr. Sedgwick: My query is, I understand the logic of making the lot line, squaring it up as it were as Billy points out and that actually allows that structure in the back, the garage and so on, to fit to conform, but my concern is that since it is adding a significant amount more property at 39 Georgica, whether or not they would covenant that there would not be any expansion of their floor area, in other words, more building over there which would affect my property more directly.

Mr. McGuirk: Billy?

Mr. Hajek: I do not know if that is a question for me or toward the applicant, I am not really sure. I have not received any offer or I do not think the applicant has made such an offer, it is not clear to me actually how big the existing buildings are and how much additional floor area could be added but maybe the applicant could answer that.

Mr. McGuirk: Jon, can you answer any of that?

Mr. Tarbet: No, I think I can answer some of it but forgive me, I do not have the numbers directly in front of me, I think the existing house is at or very near what would be allowed and then if we are talking about 15,000 square feet, is the calculation 3 percent when you calculate gross floor area? I have to look it up in the Code. I think we are talking somewhere around three or 400 square feet would be, what would be allowed to be added if the existing house were or have the exact number. I would not be inclined to offer a covenant with regard to gross floor area because like any other taxpayer in the Village of East Hampton, a future owner of this property could apply for a variance to increase the size of the house and to covenant now would prohibit, be a significant loss of value of this property to forever covenant against a future owner to be able to get a variance to allow additional gross floor area. In addition, we do not know that gross floor area laws will always be in existence or in existence in the way that they are now so a covenant, in general I hate covenants on properties because having done this for 20 years I have seen how good intentions today create problems later. So, I had not thought of it before the hearing but just the more I am thinking about it, it potentially significantly impacts the property even though, if I am correct, that the existing house, let us call it exactly at what could be allowed, although I am sure it is not exactly, the amount of land that we are asking to transfer really would not allow for any sort of significant addition. If anything, it would allow three or 400 square feet

which I could see being very beneficial to an owner to be able to, a sunroom or a bumping out a room for a bathroom or something. The amount of gross floor area that we could add by bringing in this much property, if anything it would add a convenience to the existing house and not change the character of the neighborhood whatsoever. The other thing is the existing house is on the National Registry of Historic Homes and I would hate to see somebody confined by a covenant and not be able to do what they want with that house and force them to a decision; you could really have negative consequences when you somebody to tear down the existing house to build something that better suits their changing family needs because they had no flexibility to apply to the Board. I guess I am rambling on because I am thinking about it live, before the hearing I had not thought about it beforehand, but I could see a lot of negative consequences from commenting permanently on this property that there would never be any additional gross floor area.

Mr. McGuirk: Any other comments from the Board?

Mr. McMullan: I have none.

Mr. O'Connell: I think this is a good application because it makes the lots more regular and the Planning Board is in support, I am assuming the Planning Board is lead agency, so that is my comment.

Mr. McGuirk: Okay, motion to close the hearing?

Mr. Rose: So moved.

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. O'Connell: Aye.

Mr. McGuirk: Thank you.

Mr. Tabet: Thank you for your time.

Ms. Baldwin: John, I think we still had a caller on the line.

Mr. McGuirk: Another caller?

Ms. Baldwin: I think it is the same woman, maybe from before? Mrs. Maynard?

Mr. Gambino: Yes. I will unmute her now.

Mr. McGuirk: We are going to have to open the hearing back up.

Ms. Baldwin: Yes.

Mrs. Maynard: Sorry. My husband and I are at 35 Georgica Road so this is something that I am concerned about and I think the gentleman that just called in addressed my question if you can hear me. I am sorry, I do not hear you, I see you but I cannot hear you.

Ms. Baldwin: John, you have to re-open.

Mr. McGuirk: I make a motion we re-open the hearing.

Mr. Rose: So moved.

Mr. Humphrey: Second.

Mrs. Maynard: Hello, can you hear me, I am on my land line now.

Mr. McGuirk: Yes, Mrs. Maynard.

Mrs. Maynard: Thank you. My husband and I live at 35 Georgica Road. We are in the cottage now because he cannot walk upstairs. So, we are concerned about 39 and 47 Georgica Road application. The gentleman who called in prior to me addressed that problem of a possible variance, etc., but I am concerned that there is so much building going on now in the Village I am concerned that if this goes through, will the applicant be able to change the dwelling, add to it, have a variance to go close to the property line, etc. all of those questions. So, my question to you is, I have not the paper in front of me that gave all this information, but if he gets the variance now to do whatever he wants to do, is he then able to get a variance to go close to the property line, etc., all the things he would need a variance to do because we just have a lot of neighbors, we unfortunately sold a two-acre lot, 37 Georgica Road, to somebody who built this huge McMansion that covers practically the entire two acres. We are concerned about all these variances

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going on in the Village so my question is, does he get the variance automatically and we do, my husband and I, have a question and a problem with this. End of question.

Mr. McGuirk: Thank you Mrs. Maynard. We are really not in the, we do not know what the applicant will do down the road, I do not think that is a question that we can answer. I do not have a clue as to what he is going to do.

Mr. McMullan: But if they do decide to do something, Mrs. Maynard, and if it required a variance, they would have to come back in front of us to gain approval.

Mrs. Maynard: I understand that, yes. Okay, I cannot hear you anymore but that is okay. You have answered my question. So, thank you very much, and I am sorry to have disrupted your meeting earlier. Thank you.

Mr. McMullan: Thank you.

Mr. Rose: Mr. Chairman, Joe Rose, let me just ask a question for Billy I guess but as a result of approving this rejiggering of the property lines, is there anything that allows something to become permissible, other than the existing ancillary structure becoming conforming as a result and the overall increase in the mathematical calculations for allowable GFA as a result of the larger property. Is there anything that is permissible, that becomes permissible in terms of setback variance, I am just trying to respond to the comment from the public. Is there anything that is permissible as a result other than the overall calculations?

Mr. Hajek: I cannot find any. In terms of curb cuts, it does not change the number of permissible curb cuts. There is no clearing limitation so it does not change the physical, any physical features on the property. I did run some numbers while the caller was on, and if I am correct, the allowable gross floor area for the house right now is 7,931 square feet and the lot line modification would allow 8,390 square feet which is an increase of 459 square feet of gross floor area. The existing residence as Jon indicated is historic, it is a three-story house, so I do not know, I did not see any plans on file with the Village so I do not know how big the house is, I would be taking a guess but the accessory building, because it does have an apartment or I think it did have an apartment, contributes to principal building GFA.

Mr. Tarbet: It does. The entire garage would I think, right?

Mr. Hajek: Yes.

Mr. Rose: Thank you.

Mr. McGuirk: So, for the second time, a motion to close.

Mr. Rose: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Tarbet: Thank you again.

ORIGINAL HEARING
Daniel Faber and Rachelle Shaw – 70 Dayton Lane –
SCTM #301-2-7-22

Mr. McGuirk: Okay, moving on here, Pam?

Ms. Bennett: Application of Daniel Faber and Rachelle Shaw, SCTM#301-2-7-22, for Area Variances from Chapter 278, Zoning, to construct a swimming pool and legalize two A/C condenser units. Two 10-foot variances are requested from Section 278-3.A.(5)(C) to construct a swimming pool 10 feet from the side yard lot line and 10 feet from the rear yard lot line where the required side and rear yard setbacks are 20 feet. Variances of 1.8 feet, 2 feet and 11.3 feet are requested from Sections 278-3.A.(5)(b) and (a) to legalize an A/C condenser unit located 8.2 feet from the side yard lot line and 33 feet from the front yard lot line and legalize a second A/C condenser unit located 23.7 feet from the front yard lot line where the required side yard setback is 10 feet and the required front yard setbacks are 35 feet. The subject property is 8,425 square feet in lot area and is located at 70 Dayton Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Ms. Wiltshire: Good morning.

Mr. McGuirk: How are you.

Ms. Bennett: State your name and address for the record.

Ms. Wiltshire: Laurie Wiltshire, 231C Pantigo Road, East Hampton, New York 11937.

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

Ms. Wiltshire: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Good morning, or afternoon.

Ms. Wiltshire: Hi there. The application is for variances to construct an 8 by 38 square foot swimming pool and its associated equipment and drywell along with legalizing two existing air conditioning units. The requested variances are all required due to the size of the lot and the location of the residence. The proposed pool is a lap pool because Rachelle Shaw has, one of the owners, has multiple sclerosis and needs it for therapy. We forwarded a letter, actually this morning, but I am going to read it into the record so I do not know if it made it into your file, it is to you from her, Rachelle L. Shaw, DDS, and according to the National Multiple Sclerosis Society, the unique qualities of water provide exceptional benefits to people with MS. Water helps people with MS move in ways they may not be able to on land. Swimming in particular is therapeutic for MS sufferers because it promotes muscle relaxation, reduces stress, and cools them, among many other benefits. I, Rachelle, suffer from MS, I am asking for a variance that would allow construction of a therapy pool at my home at 70 Dayton Lane. The pool would allow me to gain the benefits of swimming to slow the progression of the disease, and I ask the Board to please approve the variances. Thank you. The subject property abuts a driveway of the John Marshall Elementary School to the rear. I sent some photos over to Pam yesterday, I do not know if they ended up in your file?

Ms. Bennett: Yes, the Board has them.

Ms. Wiltshire: Okay, great. So, you will be able to see that driveway is really the most impacted neighbor to the back of the property but we also have a letter of support from the neighbor to the left and I can read that to you as well. She would be also the most impacted by the variances for the pool and one of the air conditioning units. This is an email from Anne Marie Shuhy. I recently received a notice from you concerning a variance for my neighbors, the Fabers. I have no objection to their putting in a lap pool at their home on Dayton Lane, East Hampton. Thank you, Anne Marie Shuhy at 74 Dayton Lane. So, she is immediately adjacent on the side where we are requesting side yard relief for the swimming pool and for one of the a/c units. The proposed pool has been positioned to align with the house, the pool equipment will be located where the existing outdoor shower is and will not require a variance. There are many pools on neighboring properties. A 13-foot setback variance was granted for a pool at 20 Stratton Square in 2018 and variances were also granted to 204 Newtown Lane in order to construct a pool 12.3 feet from the rear yard where 22 feet was required. And front and side yard variances were granted to 38 Dayton Lane to allow an existing generator and a/c units to remain, 38 Dayton Lane is 24,700 square feet in size, substantially larger than the 8,425 square feet of the subject parcel. Granting the requested variances will not create an undesirable change in the character of the neighborhood or cause a detriment to nearby properties. The rear yard is surrounded by stockade fencing and significant vegetation so the pool will not be visible and associated noise will be ameliorated. While some of the requested variances appear substantial, this is due to the location of the house and the small lot size and should not preclude granting the variances requested. The proposed improvements are in keeping with the neighborhood and will have no negative effects on nearby properties. And there will be no adverse impacts to the environment or physical conditions of the neighborhood. A drywell is proposed for the pool, they are intending to use for it to be a saltwater pool, and the backyard and the a/c units are already well screened with fencing and landscaping. There are also no wetlands nearby and the project is environmentally benign.

Mr. McGuirk: Thank you Laurie. We do have a letter or an email from Joyce Meyer who would be the neighbor if you are looking at the house to the right and it does say that she does not want a pool 10 feet from her property line but she probably is the least affected, I think it is 37 or 38 feet from her property.

Ms. Wiltshire: Correct.

Mr. McGuirk: Let us take the air conditioning units first. Does anyone have an objection?

Mr. Humphrey: Honestly you are talking about two feet or something like that or something like that, I cannot get excited about this, I do not think it is a problem.

Mr. McGuirk: Anybody else?

Mr. McMullan: I do not have a problem either because they are both behind a fence, you cannot see them, and they are somewhat enclosed by the fencing. So, noise-wise I do not think they have that much of an effect on the neighbors.

Mr. Rose: I would share I think the impact is de minimis and I think it is material that the affected neighbor has expressed a letter of support, does not mean obviously would require a letter of support or that a neighbor would have to weigh in one way or the other but the fact that the neighbor has voluntarily indicated their support is material.

Mr. McGuirk: Great. Let us talk about the pool now. Who would like to take us out on that?

Mr. Humphrey: I cannot, unless there is some hardship added to this by moving that pool 10 feet to the east, I do not understand, 10 feet to the right, I do not understand why there is a problem. Why can you not do that?

Ms. Wiltshire: She was trying to align the pool with the house for aesthetic reasons.

Mr. Humphrey: It is aesthetic, it is not physical.

Ms. Wiltshire: No, it is not physical, it is aesthetic.

Mr. Humphrey: Okay.

Mr. McGuirk: I personally would like to see it in a more conforming location, you are not going to be able to conform totally but I would like to

see it a little bit, not too close obviously to the neighbor to the right, Ms. Meyer because she does not want it but it is going to have to move it a little bit to the right.

Mr. Rose: I can see no reason why it cannot be conforming and also one of the rationales was to have sunlight, it will have more if you move it to a more conforming vis-à-vis the side yard setback.

Ms. Wiltshire: You are talking about the side yard setback because the rear, if we moved it to a conforming location from the rear, you basically step down off of your steps into your pool from the house which is not going to work very well especially...[inaudible].

Mr. O'Connell: That is correct. I see you can put it in a conforming location I took a scale to the survey and it looks like you can get a totally conforming location from the deck to the pool.

Ms. Wiltshire: Sorry, I do not know who is speaking because I do not have everyone on screen.

Mr. O'Connell: Philip O'Connell.

Ms. Wiltshire: Oh, there you are, okay. Sorry, what did you say again?

Mr. O'Connell: I think you can get it in a completely conforming location, if this is scaled correctly.

Ms. Wiltshire: It is scaled correctly but like I just said, I think if you move it 10 feet closer to the house, you are going to step outside of your house and into your pool.

Mr. McGuirk: I do not think, Laurie, I do not think we want to help design this, maybe if you would like to come back and maybe re-look at this?

Ms. Wiltshire: Okay so what I heard, and I will discuss this with my clients, but what I heard was one objection to the rear yard setback and everyone would like to see the side yard setback and everyone would like to see the side yard setback conforming. Is that correct?

Mr. McGuirk: I do not want to design it, just if you could come back with another idea it would be great.

Ms. Wiltshire: Okay. I will be in touch with my clients and we will come back to the next meeting.

Mr. McGuirk: Are there any neighbors who would like to be heard?

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

Mr. McGuirk: Okay, thank you. So, we will adjourn this meeting until February 12th, right Pam?

Ms. Bennett: Yes.

Mr. McGuirk: Any other business? A motion on the flood to close the hearing (sic).

Mr. Humphrey: So moved.

Mr. McGuirk: Second?

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Ms. Wiltshire: Thank you.

Mr. McGuirk: Thank you all.

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, January 8, 2021 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 Lily Pond Equities, SCTM#301-13-13-11.1, 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; the nearest being located 63.1 feet from the 15-foot con-

tour 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. A 1.6-foot variance is requested from Section 278-3.A.(4)(a) to construct a second story addition 32.4 feet from the side yard lot line where the required setback is 34 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. Application of Georgica Road LLC, SCTM#301-8-12-11.1, for a Variance from Chapter 278, Zoning, to permit a residence that exceeds allowable gross floor area to remain on a parcel of land that will be reduced in size. A 1,422 square foot gross floor area variance is required from Section 278-3.A.(13)(a) to allow an existing 11,550 square foot residence to remain on a parcel of land that will be permitted 9,628 square feet of principal building gross floor area, and any other relief necessary. The pending lot line modification with property identified as 39 Georgica Road will reduce the size of the subject property from 156,233 square feet to 140,933 square feet. The subject property is located at 47 Georgica

Road and is in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Application of Daniel Faber and Rachelle Shaw, SCTM#301-2-7-22, for Area Variances from Chapter 278, Zoning, to construct a swimming pool and legalize two A/C condenser units. Two 10-foot variances are requested from Section 278-3.A.(5)(C) to construct a swimming pool 10 feet from the side yard lot line and 10 feet from the rear yard lot line where the required side and rear yard setbacks are 20 feet. Variances of 1.8 feet, 2 feet and 11.3 feet are requested from Sections 278-3.A.(5)(b) and (a) to legalize an A/C condenser unit located 8.2 feet from the side yard lot line and 33 feet from the front yard lot line and legalize a second A/C condenser unit located 23.7 feet from the front yard lot line where the required side yard setback is 10 feet and the required front yard setbacks are 35 feet. The subject property is 8,425 square feet in lot area and is located at 70 Dayton Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Said Zoning Board of Appeals will at said time and place hear all persons who wish to be heard in connection with the applications. Interested parties may be heard in person, by agent, or by attorney. Dated: December 18, 2020

By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals Inc. Village of East Hampton
24-2



FILED
VILLAGE OF EAST HAMPTON, NY
DATE February 16, 2021
TIME: 11:00 a.m.

16289