

Zoning Board of Appeals  
February 12, 2021  
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  
Elizabeth Baldwin, Village Attorney  
Billy Hajek, Village Planner  
Leonard I. Ackerman, Attorney on behalf of Lily Pond Equities and Sanford  
Robertson  
Linda Margolin, Attorney on behalf of Lily Pond Equities and Sanford Robertson  
Brian Matthews, Attorney on behalf of Jeffrey and Marjorie Rosen, 41 Lily Pond  
Lane  
Jeffrey and Marjorie Rosen, Neighbors of Lily Pond Equities  
Andrew E. Goldstein, Applicant  
Brian DeSesa, Attorney on behalf of BG Development H LLC  
Sanford Robertson, Applicant  
Dan Shepperd, Architect on behalf of Sanford Robertson  
Jane Sacasa, Neighbor of Sanford Robertson  
Jody Gambino, LTV Moderator  
Pamela J. Bennett, Village Clerk

Mr. McGuirk: Good morning and welcome to the Zoning Board of Appeals meeting for the Village of East Hampton, Friday, February 12<sup>th</sup>, I would like to call the meeting to order.

MINUTES

Mr. McGuirk: We have the minutes from **January 8, 2021**, I would like a motion please.

Mr. Rose: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

#### DETERMINATION

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

Mr. McGuirk: We have three determinations I believe from the previous meeting, and I will read the findings and you can look on line to look at the full determination at Village Hall. In the application of Gary and Mariel Kravetz, 2 Baiting Hollow Road, Suffolk County Tax Map number 8-10-29.3, excuse me, excuse me, I do not know who is talking, but can you please mute yourselves, thank you, to construct a single-family residence and accessory improvements is approved. Ms. Bennett?

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

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

Mr. McGuirk: The second, in the application of Emre and Linda Gunalp, 149 Main Street, Suffolk County Tax Map number 8-3-18, to construct pool equipment, A/C condenser units, and outdoor shower is approved. Ms. Bennett?

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

**Georgica Road LLC – 47 Georgica Road – SCTM #301-8-12-11.1**

Mr. McGuirk: Okay, and the last one, in the application of Georgica Road LLC, 47 Georgica Road, Suffolk County Tax Map number 8-12-11.1, to permit a residence that exceeds allowable gross floor area to remain on a parcel of land that

will be reduced in size pursuant to a lot line modification is approved. Ms. Bennett?

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.

**APPLICATION TO BE RE-NOTICED**  
**Eric and Lori Blatstein – 211 Lily Pond Lane – SCTM #301-15-4-12**  
(Hearing Date March 12, 2021)

Mr. McGuirk: Okay, we are going to move on to, we have an application to be re-noticed, Eric and Lori Blatstein, 211 Lily Pond Lane, so Ms. Bennett you will be doing that I assume.

Ms. Bennett: Yes.

Mr. McGuirk: Thank you.

**ADJOURNMENTS**  
**Daniel Faber and Rachelle Shaw – 70 Dayton Lane – SCTM #301-2-7-22**  
(Adjournment date March 12, 2021)  
**JABR LLC – 209 Further Lane – SCTM #301-5-2-14.2**  
(Adjournment date March 12, 2021)



**64 WE Acquisition LLC – 64 West End Road – SCTM #301-15-5-3**

(Adjournment date April 9, 2021)

**Under One Roof LLC – 29 King Street – SCTM #301-2-1-1**

(Adjournment March 12, 2021)

Mr. McGuirk: Requests for adjournments, Daniel Faber and Rachelle Shaw, JABR LLC, 64 WE Acquisition LLC, Under One Roof LLC, can I have a motion?

Mr. Humphrey: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Aye.

Mr. McGuirk: Thank you. All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

**CONTINUED HEARING**

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

Mr. McGuirk: Onto our continued hearing for Lily Pond Equities, 33 Lily Pond Lane, is the applicant...

Mr. Ackerman: Yes, good morning.

Mr. McGuirk: Good morning.

Mr. Ackerman: With respect to the Lily Pond Equities application, this is Lenny Ackerman, on January 26<sup>th</sup>, we submitted a letter, it set forth the basis for our application for relief and with respect to the concern of the Board as to the issuance of a covenant, a covenant with respect to enclosing...

Ms. Bennett: Len, could you speak up a little bit.

Mr. Ackerman: Oh sure, I am sorry.

Ms. Bennett: Thank you, sorry.

Mr. Ackerman: Our January 26<sup>th</sup> letter outlined our legal position with respect to res judicata...[inaudible]...and of the 2005 application. In addition, a concern and issue was raised with respect to a proposed covenant not to enclose the proposed porch. Our position is that such a covenant is inappropriate under the circumstances. This applicant and any successor, owner of this property, should be able to, and is entitled to rely, on the prior determination for any future application. That is all.

Mr. McGuirk: We did put a, we did reach out to The Raynor Group who is now doing some work for the Village and there is a construction protocol that we are going to need for this. So I think I am good with everything on this application at this point. I think if we can have the Village Engineer and the lead Building Inspector sign off on the construction protocol, I am fine to move ahead with this. Anybody else on the Board have any other objections or issues here?

Mr. Rose: Mr. Chairman?

Mr. McGuirk: Yes Mr. Rose?

Mr. Rose: So when we visited the property to inspect and review, the attorney for the applicant indicated that as part of the application and part of the addressing of the issues, they were prepared to remove all the intrusions into the dune other than those being applied for, specifically the lights that are, have been violated, but the structures that are in the dune that are not conforming so I assume that is, that representation continues to be valid and I would like to see it reflected in both the determination of the Zoning Board, of the ZBA, and acknowledged by the applicant.

Ms. Margolin: Len, can I speak to this?

Mr. Ackerman: Sure.

Ms. Margolin: We are prepared to see the removal of those lighting structures in the dunes as a condition for the grant of the variances here, and Mr. Chair, I just wanted to say that the applicant is prepared to produce or supplement or modify its construction protocol as required by the Building Inspector and the Village

Engineer when they apply for a Building Permit. They would not be able to do so now because they have not engaged a contractor.

Mr. McGuirk: Okay. Billy? Anybody else have any comments?

Mr. Rose: Just one further comment because I think we can act on this without having, that our action, I just want to be clear, does not involve, does not require agreeing with all the grounds as requested by the applicant in terms of the interpretations, but the applicant has made their representations and their arguments in terms of why they believe they have a hardship, what the calculations are, the ZBA is not constrained by that in making our determination.

Mr. McGuirk: I do not know who is talking in the background but please do not do that, please put your microphones on mute, thank you. Does anybody else want to be heard regarding this application?

Mr. O'Connell: Just to clarify, I want to make sure I am on the same page, we if we approve this, before the Building Permit issues, the construction protocols must be reviewed and approved by both the Village Engineer and the Building Inspector, is that correct?

Mr. McGuirk: That is correct.

Mr. O'Connell: Okay, thank you.

Mr. McGuirk: Okay, no one else?

Mr. Matthews: Yes, if I could Mr. Chairman, I did not want to interrupt any Members of the Board if you wanted to turn to the members of the public, we would like to be heard.

Mr. McGuirk: Yes, just state your name Brian.

Mr. Matthews: Yes, no problem, it is hard to tell who else was up next. Brian Matthews from Matthews, Kirst, and Cooley here on behalf of the neighboring property owners, Jeffrey and Marjorie Rosen, they are the owners of 41 Lily Pond Lane which lies to the north and is a property that the 33 Lily Pond property has to take access over in order for egress and ingress. Obviously we have had concerns about this application going back a couple of years now and certainly this application is a scaled back version of what was originally proposed and what is

the subject of the ongoing litigation, but at this point, going through the concerns of the Village's consulting engineer, I think that we would agree that there is some incompleteness to it now particularly with so many components of the survey and the site plan but obviously one of their critical concerns is the construction protocol as it relates to the accessway and the roadway that is part of their property. I think being as how that was raised to the engineer or raised by the engineer and his conclusion that the application as it sits right now is incomplete, what I think would be perhaps, particularly because of the level of involvement that this application and this property has had for the couple of years that it would be, maybe a better way to proceed to have that protocol prepared and submitted and to have these neighbors the ability to take a look at it and discuss it with the Board versus closing the record of this application and just perhaps moving it forward to an approval and then having to deal with the potential, the construction protocol issue with the engineer and the Building Inspector at some later time.

Mr. McGuirk: I hear what you are saying but I think the Board is ready to move on to close this hearing.

Mr. Matthews: We would ask if we could have time to put in a written submission, I mean there was a 200-page submission put it just about a week or so ago so we would like to reserve the right to put in a written response to that.

Mr. McGuirk: I think we are going to close, I want to close the hearing, I think everybody, my Board wants to close the hearing. Does anybody else have any objections?

Mr. Humphrey: No.

Mr. Rose: I have a question Mr. Chair, will the neighbors have the opportunity to submit to the appropriate Village officials any comments regarding the construction protocol.

Mr. McGuirk: Billy, can they weigh in on any of that, or Beth? Is that allowable? Beth?

Ms. Baldwin: Yes, sorry, I was trying to unmute. I am not sure what their agreements are as far as, is it an easement, is it, how is that set up as far as access?

Mr. Matthews: The access is what is the roadway, I use that term loosely of Tides turn Lane, that is used for access for both 41 Lily Pond, 37 Lily Pond which is the

property in the middle, and the 33 property. Tides Turn Lane is not actually a roadway itself, it is access easements back and forth but the roadbed, if you will, is owned by each individual property owner. It is part of their property, it is not even a separate roadway, it is not a flag strip, it is their actual property.

Ms. Baldwin: Is there any agreement amongst the property owners that they have to return the road to...

Mr. Matthews: No, there is not. Obviously it is a critical component, a critical concern for them throughout this and from the way we have gone about this application for the last couple of years, the construction protocol for all of this has been a pretty strong component that this Board has always required, that the Village Planner has always required, to have a full and complete construction protocol to get an understanding of how this is all going to be done so if that protocol is not yet complete by the Village Engineer's understanding, to me I think it is a little bit premature to close the hearing and not give the concerned public the opportunity to review that and actually weigh in on it in front of this Board. Certainly, at the very least in a written submission that would find its way into the record.

Ms. Margolin: Mr. Chairman, might I be heard?

Mr. McGuirk: Yes.

Ms. Margolin: The construction protocol that was submitted is the same one that has been on file with the Board for quite some time, it is not a new submission, it was recently reported on by the Village Engineer, Mr. Gaudiello, but it has been submitted for quite some time and why it is that Mr. Matthews has not submitted anything he cares to with respect to it months ago, I do not understand.

Mr. Matthews: You have the Village Engineer saying that it is incomplete.

Ms. Margolin: Excuse me.

Mr. Matthews: I am sorry, go ahead.

Ms. Margolin: We do not want to keep the hearing open. In addition, I will simply say that there is a private easement that governs the rights of Mr. Matthews' clients in this regard, and if he is entitled to, on behalf of his clients, say something about the construction protocol at the appropriate time, he will certainly have that

right because...[inaudible]...private right but it is not a right that this Board is required to or even may protect in its own determinations because the private rights of landowners with respect to easements are not this Board's business, with respect.

Mr. Matthews: I would, if I could have just a moment, I would agree with that and disagree with that at the same time. The impact on neighboring property owners is certainly something that this Board takes into consideration, and I think at this point these neighboring property owners have made clear their concerns so, again, we think that the construction protocol by the Village Engineer's own comments is incomplete. There should be an opportunity to review and comment on what is deemed to then to be a complete application and a complete construction protocol. Again, we would ask that it would be put over to the March hearing but if the Board is not inclined to do that, we would ask, as would be standard practice from my experience in front of this Board, the opportunity to put a written submission in prior to the formal close of the record.

Ms. Baldwin: I think the Village Engineer and both, both the Village Engineer and the Village Building Inspector will be reviewing the protocol prior to the issuance of any building permit, and I highly doubt that either one of them would sign off on a protocol that would in some way be detrimental to the other property owners. I think the Building Inspectors themselves and the Engineer are looking specifically, as you noted, at the access so obviously that is on their radar so I think that is a concern that they are all aware of and I think that would be something that will be addressed prior to any signoff of a protocol.

Mr. McGuirk: Anybody else have any comments?

Mr. Matthews: I am sorry, Beth, I understand, so we would just renew that request for a short time to put in a written submission, please.

Mr. McGuirk: So I would like to make a motion...

Mr. Rosen: May I say something as the neighbor?

Mr. McGuirk: Yes. Can you please state your name...

Mr. Rosen: My name is Jeffrey Rosen, we own the property at 41 Lily Pond Lane, we in fact are at the end of Tides Turn Lane...

Mr. McGuirk: Pam?

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

Mr. Rosen: My address in East Hampton or New York?

Ms. Bennett: Wherever.

Mr. Rosen: Jeffrey A. Rosen, 41 Lily Pond Lane, East Hampton.

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

Mr. Rosen: Yes, I do.

Ms. Bennett: Thank you.

Mrs. Rosen: May I be sworn in too, I am Marjorie Rosen, I am also the property owner?

Ms. Bennett: And your address?

Mrs. Rosen: 41 Lily Pond Lane, East Hampton.

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

Mrs. Rosen: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead Mr. Rosen.

Mr. Rosen: I just have one comment which is, I think we have just one comment, which is I would just would like to underscore the points that our attorney, Mr. Matthews, has made. To date, the people who have submitted the request of the Starks have shown no interest or no concern for the impact on Tides Turn Lane of the extensive construction which they are proposing to carry out. I think as Mr. Matthews has made clear, it has the risk for potential damage, there are ways to



deal with it, there are ways to get to an agreement, so far they have shown no interest in having that agreement which is why I think Mr. Matthews' comments are most important. Thank you.

Mr. McGuirk: Thank Mr. Rosen. Mrs. Rosen, would you like to say anything?

Mrs. Rosen: Yes, I would. When the application was first submitted to your Board and we understood that because if this is an easement as has been documented, we own most of Tides Turn Lane. Mr. Matthews reached out to Mr. Ackerman to please talk to the Starks so that we can sit down and go over what would be involved protecting everybody's property. As Mr. Matthews probably, I do not want to speak for him, but I recall Mr. Matthews reporting back to us that the Starks said why do we need to talk to them, they completely dismissed us, and we have had a history of issues with the Starks over the years that has been disrespectful of our property.

Mr. McGuirk: Okay, thank you Mrs. Rosen. Anybody else?

Mr. Rose: Is it appropriate for the, Mr. Chair, for the Board to request that the appropriate Village Officials in reviewing the construction protocol pay attention to the impact on the surrounding neighbors.

Mr. McGuirk: I did speak with the Engineer on this and he is well aware of the access to the Stark's residence so I think the construction protocol is going to take that into consideration, it was one of the first things he mentioned to me. I would like to make a motion to close the hearing.

Mr. Humphrey: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.



Mr. Rose: Aye.

Mr. McGuirk: Okay, thank you everyone. Let us move onto the new hearings. Pam, can you please.

ORIGINAL HEARING  
Wendy R. Serkin and Andrew E. Goldstein – 87 Jericho Road –  
SCTM #301-13-1-5

Ms. Bennett: Application of Wendy R. Serkin and Andrew E. Goldstein, SCTM#301-13-1-5, for Area Variances from Chapter 278, Zoning, to construct a shed and make alterations to an existing residence. A 20-foot variance is requested from Section 278-3.A.(5)(b) to construct a shed 0 feet from the rear yard lot line where the required rear yard setback is 20 feet. A 2.3-foot variance is requested from Section 278-3.A.(4)(a) to make alterations to a legally preexisting nonconforming residence located 31.7 feet from the rear yard lot line where the required rear yard setback is 34 feet, and any other relief necessary. The subject property is 40,054 square feet in area and is located at 87 Jericho Road in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: I am going to sit off this application; Jim McMullan is going to lead us on this. Go ahead, Jim.

Mr. McMullan: Thank you, John. Is Mr. Goldstein here to give his presentation?

Mr. Goldstein: Yes, good morning, Andrew Goldstein. First, let me acknowledge that we understand that the size of the setback variance for the shed is large but it really is the minimum that, it is not zero feet, it will be two feet actually from the property line, that it is really the smallest variance that we could ask for in order to give us a location for the shed that is unobtrusive but also allow us not to have destroy large trees and mature planting on the property. I guess we had asked if you could appreciate that as you consider the variance.

Mr. McMullan: Mr. Goldstein, I think my concern is the two feet off the property line for the shed. If for some reason a storm or some type of mishap happens in this piece of, say the wall of the shed needs to be repaired or addressed, there really is not enough room with the two feet to gain access without being on the neighbor's property. So that is one of my biggest concerns. If we could go to four

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or five feet, I think that would be much better; a person could get in there maintain the side of the shed or at least repair it if needed.

Mr. Goldstein: We could do four feet, I mean that would be fabulous if we could do four feet because always having to, there is a mature plant, that sort of gives us room to clear that.

Mr. McMullan: I have been on the property and I have seen the landscaping, which you have very nice landscaping, and I see what you are saying and what would be impacted. Does anyone else on the Board have a comment?

Mr. O'Connell: Yes, I would like to speak. I find it hard, somewhat inconceivable on an acre of property that you cannot find a more conforming location. The request for a 100 percent variance is very substantial. I see you have another shed on there that is 12.8 feet off, I would be comfortable, with at a minimum, 10 feet off the property line. I went over there and took a look at it also. Those are my comments and I follow with what Jim is saying the ability to get behind the shed, service the shed, put up a ladder there at an angle that is acceptable to get up on the roof to fix it if need be. I just think do not think that 100 percent variance is acceptable, and I think there is, you can find a more conforming location to place the shed.

Mr. Goldstein: Well, let me just say one thing to that if I may, just to correct it, it is not 100 percent, it is 90 percent; whatever variance is being granted, it is being granted for 12 feet of length along the 216-foot property line but also in terms of a conforming location, that is really the only place that that shed can be located because that alley right there which does not require a tree being cut down. Indeed, that tree, the tree that is, that tree would have to be cut down, that tree is a Snakebark maple tree, it is probably, we have been told by Ray Smith who does the Long House plantings, it is the only tree he has ever seen of that kind in East Hampton, and we have three of them in that area, and we would like to save it. That tree is exactly 20 feet from the property line so if we move out 10 feet, that tree has to be cut down.

Mr. O'Connell: And one other question, Mr. Goldstein. This shed will have no plumbing, no electric, correct?

Mr. Goldstein: No plumbing or electric, I need to have, no, no plumbing, no electric, no, no it is going to have outlets because I want to be able to charge

battery powered, and it is going to have a light because sometimes you need a light, but it is not going to have any plumbing.

Mr. O'Connell: Okay, thank you.

Mr. McMullan: Craig, do you have anything to say?

Mr. Humphrey: The tree that Andy is talking about is in the setback so that...

Mr. Goldstein: Well, no, the tree, that little tree, the thinner tree, is exactly 20 feet so if I go out, I tried to find a place that I could put this shed so I would not have to come to you and so looking for 120 square feet of unobstructed space, I do not have it, except it has spots which is hard to believe. As you go around the property, I frankly, I did not want to come within 20 feet of there rear because my fence there is a see-through fence, and he would see the shed, I thought he might object to that; the property on the other side is really completely obscured. It is because of the trees, it is not possible really, and frankly we were talking about a matter, four feet would give me, four feet is enough for that shed to be maintained in the event of a problem arising, I am not sure, let me just say that is exactly, that is around four feet maybe, the ladder, there would be roughly, that is where a four or five foot, five feet I have a problem with that plant, but as you look back there, you see the trees, the large trees that make it difficult for us to, make it impossible for us really, to have any other location. As you move further around the other side of the property, the problem is even worse because the trees are larger, the plantings are, some of those, there are rhododendron back there that are 60 years old and one or more would have to be removed, I do not think there is a real parallel to the other shed on the property, it is just a different location and there was actually a shed in that location on the property when I bought the house 30 years ago. Again, I think that, I appreciate the concern about my abilities to maintain the shed and I think four feet would do it and not create an intrusive location for the shed.

Mr. McMullan: Craig, do you have an opinion?

Mr. Humphrey: Are you talking to me?

Mr. McMullan: Yes.

Mr. Humphrey: I sympathize with Andy because they have a beautifully landscaped property, and I walked through it, but this is going to be a shed in the setback and the precedent for this thing is not good.

Mr. Goldstein: Can I address precedent, Craig?

Mr. Humphrey: Lots of people are going to want to put their sheds in that setback.

Mr. Goldstein: Can I address that, Craig?

Mr. Humphrey: Yes.

Mr. Goldstein: The property is very constrained because it is on the corner and has two front yards, and in addition, the house was located, 60 years ago, at almost double the required front yard setback, so 100 feet from each of the streets, and what that does, Nick, if you could put up the survey, it results in a, you can see really, I mean I have, it is probably less than 25 percent of the property that is available, and you have conditions on the property that militate against any other applicant being able to say, to rely on this application as a precedent for a two-foot shed. So, you are not setting a precedent that I do not think anyone else is going to be able to use.

Mr. McMullan: Joe, do you have anything to add?

Mr. Rose: Well I think, both in looking at the application and hearing the comments both from the applicant and the other Members of the Board, I think the issue is is it possible to locate the shed without disrupting mature plantings, and I think that is an issue that has to be explored, and, frankly, I have not had the chance to walk the property so I look forward to doing that prior to our action, but I am sympathetic to both, all the points being made, so it is a practical question of whether it can be located in the general area without disrupting the, as conforming as possible, without disrupting the mature vegetation, so we will look at it.

Mr. McMullan: It is definitely tight on that property because of the amount and location of a lot of the landscaping that I have seen on Andy's property so I do feel for the applicant, but I know you would like to take a look at it. Is this something, Beth, that maybe we close the hearing and do the final decision through the Work Session?

Ms. Baldwin: If the Board wants to, if any of the Board Members want to go actually to the property to see it, you would leave the record open, you would not close the hearing.

Mr. McMullan: Okay. Is that something that the Board feels necessary to, Phil, do you need to go out as well and take a look.

Mr. O'Connell: I have already been out. It is the one comment I had was I asked Andy to revise his request, five feet off...

Mr. Goldstein: I can do four feet off, five feet off puts, I am happy to do four feet off, if you are saying that one foot is going to have an adverse effect on neighborhood character, I am willing to, we are essentially putting the shed, the whole purpose of the extra space is to deal with some kind of maintenance issue, I think we can do that, I do not think that the shed at four feet as opposed to five feet is...

Mr. Ackerman: Andy, Andy this is Lenny...

Mr. O'Connell: Hold on a second, actually I am saying that I think there is a conforming location you can put it, I am asking if you would like to revise it to five feet.

Mr. Goldstein: You think there is an alternative location?

Mr. O'Connell: That is correct, that meets the setbacks, that is correct.

Mr. Goldstein: Even with what we have on the survey?

Mr. O'Connell: Yes, that is correct. It may not be where you want it but there is...

Mr. Goldstein: Is not the test, is it feasible for us to have a location, is that not the test, you do not live there, I live there.

Mr. Ackerman: Hold it, hold it, Andy, Andy, Andy...

Mr. Goldstein: Yes Len?

Mr. Ackerman: Please, one second, I suggest that we put this off and have an opportunity to have some of the Board Members who would like to visit the property, visit the property, and see if we cannot come to a consensus.

Mr. McMullan: I think that is the best approach as well because I think Joe wants to get out there and look at it a little more closely and maybe so do other Members of the Board. So, I would ask that we leave the hearing open and adjourn this to the next meeting. How do the other Board Members feel?

Mr. Rose: I appreciate that, I am fine with that.

Mr. McMullan: Can I have a motion then?

Mr. Rose: So moved.

Mr. McMullan: Second?

Mr. Humphrey: I second it to move along.

Mr. McMullan: Thank you. All in favor?

Mr. Rose: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. McMullan: Okay, I am going to return the meeting back to John.

#### ORIGINAL HEARING

#### **BG Development H LLC – 39 Conklin Terrace – SCTM #301-1-3-34.1**

Mr. McGuirk: Okay so we have the next hearing is BG Development H LLC, 39 Conklin Terrace, Ms. Bennett?

Ms. Bennett: Application of BG Development H LLC, SCTM#301-1-3-34.1, for a Variance from Chapter 250, Streets and Sidewalks, to allow two driveway curb cuts. A variance is requested from Section 250-23.B.(8) to permit the installation of two driveway curb cuts where the subject property is limited to one driveway curb cut leading to Conklin Terrace. The subject property is 19,310 square feet in



area and is located at 39 Conklin Terrace in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Is the applicant present?

Mr. DeSesa: Good morning Members of the Board, Brian DeSesa, attorney for the applicant. Thank you for hearing me this morning. The property is at 39 Conklin Terrace, we are here under Chapter 250-23.C.(2) is the criteria that I want to talk to the Board about this morning, specifically (a) to start with whether there will be an adverse impact on the public safety. I would submit to you that the two curb cuts actually increases the public safety in preventing cars from having to back out of the driveway. Conklin Terrace, as the Board I am sure is aware, is a dead end. This property is located almost at the end of the cul-de-sac for Conklin Terrace so it is not a through street so in terms of public safety or safety concern, the avoidance of backing cars out on the circular driveway would be a benefit. Under criteria (b), would there be any adverse impact on traffic. No, it is a single-family residence, the establishment of the circular driveway or two curb cuts does not increase the intensity of a single-family use nor would it permit additional cars under the single-family use to be there. It actually moves cars from parking on the street, which is a narrower street. Will there be an adverse impact on the environment, no, because we are not taking any existing trees down, we are not increasing any kind of use or occupancy, we are not changing rainwater discharge or runoff or anything along those lines. Would there be an adverse impact on the ability for the Village to maintain and improve the right-of-way or its public right-of-way, no, because none of the improvements are into the Village right-of-way nor would they obstruct the Village in the administration of that at any point, the Highway Department that is, and whether there would be an impact, an adverse impact on the future development of the area, no, the installation of the two curb cuts does not provide for an increased density nor does it prohibit any neighbor or adjoining area, adjoining resident or the Village from doing any kind of development later and whether the grant of this would be in the best interest of the community, I would say yes, because again, going back to (a), for purposes of safety we are not backing cars out, it has been screened and planted and it is a, from what the applicant perceives, it is a better way to enter and exit a driveway on a residential street, will have no impact on traffic flow or the safety of the neighborhood, would not impact the Village's ability to put a sidewalk in should the Village endeavor to do that at a later date, and due to the unique nature of this lot in terms of how it is, with its width, with its L shape across the back, this would be the minimum amount that the applicant would be looking for, the lot size is

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fixed, there is not a traffic safety or other concern so I would ask this Board for a waiver under the Chapter 250-23 for the installation of the two driveways.

Mr. McGuirk: Okay, thank you Brian. Any Board Members want to chime in on this to start?

Mr. Humphrey: Yes, John?

Mr. McGuirk: Yes, Craig.

Mr. Humphrey: First of all, it says in the Code that you cannot have more than one curb cut.

Mr. McGuirk: Yes sir.

Mr. Humphrey: Second of all, I think the issue here is whether or not a car can turn around in a lot that is configured with only one curb cut. If the second curb cut in this case is eliminated and a portion of the driveway that goes into that curb cut is used to make a small turnaround in the front of the house, without going all the way to the front door, it has a turnaround and no second curb cut.

Mr. McGuirk: I totally understand and I agree with your analysis on this. Anybody else like to comment?

Mr. O'Connell: This is Philip, I would like to comment. I do not know how many years the house that was there existed with one driveway without issue. As Brian pointed out, it is a dead-end street so even backing out onto this street is not an issue there. I live on Newtown Lane where it is somewhat of an issue, but there is minimal traffic down there and as Craig said the Code allows only one curb cut so that is my opinion.

Mr. McGuirk: Thanks Phil. Anybody, Joe, would you like to comment, or Jimmy?

Mr. McMullan: I agree with Craig. That is all I have to say.

Mr. McGuirk: Thank you. Mr. Rose?

Mr. Rose: I agree with the other Board Members.



Mr. McGuirk: Anybody out there in the, any comments from anybody else on line here?

Mr. Gambino: Currently there are no callers on the line.

Mr. McGuirk: Okay, thank you, sir. I make a motion to close the hearing.

Mr. McMullan: I will make a motion.

Mr. McGuirk: Can I have a second please.

Mr. Humphrey: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

Mr. McGuirk: Thank you Brian.

Mr. DeSesa: Very good, thank you Board.

ORIGINAL HEARING  
Sanford Robertson – 130 Further Lane – SCTM #301-10-1-19

Mr. McGuirk: Okay, Ms. Bennett, onto the last hearing of the day please.

Ms. Bennett: Application of Sanford Robertson, SCTM#301-10-1-19, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence and make alterations to accessory structures. A 617 square foot variance is requested from Section 278-3.A.(13)(a) to permit a residence containing 5,674 square feet of gross floor area where the maximum permitted gross floor area is 5,057 square feet. The legally preexisting residence contains 5,293 square feet of gross floor area. A 6.3-foot variance is requested from Section 278-3.A.(4)(a) to construct an addition 27.7 feet from the side yard lot line where the required

setback is 34 feet. A 4.3-foot variance is requested from Section 278-3.D.(6) to permit the installation of a cupola/weather vane resulting in a detached garage containing a height of 24.3 feet where the maximum permitted height of a detached garage is 20 feet. A 6-foot variance is requested from Section 278-3.A.(5)(c) to make alterations to a pool house building located 34 feet from the rear yard lot line where the required setback is 40 feet. A 4.8-foot variance is required from Section 278-3.A.(5)(a) and a variance from Section 278-3.A.(5)(f) to make alterations to a garage located 50.2 feet from the front yard lot line where the required setback is 55 feet and to make alterations to a detached garage located in the front yard area, and any other relief necessary. The subject property is 40,818 square feet in area and is located at 130 Further Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Thank you Ms. Bennett. Mr. Ackerman?

Mr. Ackerman: Yes, thank you, thank you John. This application has been amended to reduce the sought-after variances, the cupola variance is no longer being requested. There are also, as you know, approval for a curb cut that we filed from the Highway Department as well as neighbor support letters. This is an interesting application in that when this house was renovated in 2014, it was conforming as to GFA, however, in the amendment of our Zoning Code in 2015, although the permitted GFA was slightly reduced, the double height ceiling rule added an additional amount of GFA to the house without any change. This is what we would call by operation of law, they lost GFA. We, therefore, in conjunction with the design work of the architect, by the way Dan Shepperd from Peter Marino is on the line as are the clients Mr. and Mrs. Robertson. We recaptured an amount of GFA basically clawed back 215 square feet. So the substantive application here was with respect to the enclosure of the balcony. The additional small GFA with respect to the elevator is, in our view, probably inadvertently a mistake that was made in the adoption of our ADA law, GFA was not considered although setbacks and coverage were eliminated from the law. Mr. Robertson is one of those individuals who at 81 years of age I respect because he is older than I am and has more energy than I have and he needs, however, to have both the privacy of an office area to work from as well as elevator access to reach the second floor of the house as years progress. So with respect to the enclosure of the balcony, we are only really asking for...[inaudible]...variance for the GFA and that change being 311 square feet. I think this is not a substantial request, I think the welcoming of Mr. and Mrs. Robertson to East Hampton should come with the approval of this application. The architect is available if you have any questions as are Mr. and Mrs. Robertson.

Mr. McGuirk: Thank you Mr. Ackerman. Philip, you want to lead us out on this.

Mr. O'Connell: Sure, before I start, is there any member of the public that would like to make a comment on this application? Do we have any callers on the line?

Mr. Gambino: No callers on the line.

Mr. O'Connell: Okay while I definitely sympathize with the applicant's need for the elevator and the re-configuring of the driveway and the enclosure of the second story porch, my concern is the applicant purchased this property in August knowing, of this year, of 2020 rather, knowing full well what the limitations were. If the elevator was so important, perhaps they should have found a place with an elevator. I do not think the elevator is the minimum variance necessary because you can place the elevator within the footprint of the house, you are already going through, you are going to walk through the den to get to the elevator and then when you come out, you are going to walk through the his and hers dressing room I believe so I think the elevator can go within the footprint of the home. I would not be surprised if when Dan Scotti designed this home that there was space somewhere within the home for an elevator shoot. With regard to relocating the doors for the garage, I think the Village passed the law that they no longer wanted garages in the front yard, I am not sure the genesis of that, but I am told in part that it was not to see garage doors facing the street. So that is my other concern. I have really no concern about the covered walkway or the enclosed balcony on the second story.

Mr. McGuirk: Okay, Jimmy or Mr. Rose or, who would like to chime in?

Mr. McMullan: As we said on the last application with the two curb cuts and kind of opening this up to having another issue...

Mr. McGuirk: The curb cut has nothing to do with us now, the curb cut was issued by David Collins, the Village Highway Department, so he has already granted it so they do not need relief from us on that.

Mr. McMullan: Right, but it does affect the garage doors flipping toward the street side. Obviously, there is plenty of room on this property for screening so if it was well screened, then I would not have a problem with the garage doors shifting toward the front. I do not have a problem enclosing the second-floor balcony area as well as the covered walkway. The elevator, I am not sure if that is really the end

all, be all location that is the only spot welcoming or available, I think that could be re-visited.

Mr. McGuirk: Joe, would you like to say anything?

Mr. Rose: I am sympathetic to the comments made but I do not understand what the hardship is that necessitates the cupola on top of the garage and the pool house.

Mr. Humphrey: It has been withdrawn.

Mr. McGuirk: They withdrew those earlier, Mr. Ackerman did.

Mr. Rose: Did I miss that, okay, thank you, great.

Mr. McGuirk: I understand the elevator, I am not an architect so I do not want to design where you put the elevator, I do not really have any issues with this application at this point. I do believe if we could get a little more screening out front, Mr. Ackerman, so we do not have to look at garage doors.

Mr. Ackerman: Well, that is certainly we could do, sure.

Mr. McGuirk: Do we want them to re-look at where the elevator should go? A different place?

Mr. Rose: If I could suggest, the points made by Phil are good, if there is in fact no practical alternative then that becomes an issue that I think we have to address, but if I am sympathetic to the concern, the desire to have and perhaps the need for an elevator does not necessarily translate into the location of putting it into the setback area.

Mr. Ackerman: If I may...

Mr. Rose: It requires further examination.

Mr. McGuirk: Go ahead Mr. Ackerman.

Mr. Ackerman: Joe raises a good point, let me just say this with respect to the elevator, and we can ask the architect to speak to that, it needs to be outside for purposes of gaining access, that is one reason, and, two, the architects explored all the alternatives to see if we could find an alternative location, and I certainly ask

him to speak to that, but I also want to point out that under the American Disabilities Act, it is clear that the Village intended to eliminate from the requirements of both coverage and setbacks and inadvertently left out the GFA. They could not have intended to allow an elevator within a setback and in excess of coverage and not include it in GFA, and what we are talking about here, is 70 square feet, and even if that number is correct, it is the shaft way. I mean to focus on the elevator I think is not, it is not reasonable, it is not sensible, and we do not have to show a hardship. The hardship is obvious and I would like to, Mr. Chair...

Mr. McGuirk: Yes, might you have the architect just speak on it real quick.

Mr. Ackerman: Could you, Dan, can you just, if you would, just explore when you reviewed, did you review any other alternative locations that were conforming for the elevator? Why is the elevator located in this particular...

Ms. Margolin: Excuse me, Mr. Ackerman?

Mr. Ackerman: Just one second, Linda. Dan, are you on?

Mr. Shepperd: Yes, Dan is here.

Mr. Ackerman: Dan, would you mind, you have heard this...

Ms. Bennett: Let me swear you in.

Mr. McGuirk: Dan, Pam is going to swear you in, please.

Mr. Shepperd: Hold on now, let me turn on the video, hello there.

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

Mr. Shepperd: My name is Dan Shepperd, I work for Peter Marino Architects, my address is 8924 118<sup>th</sup> Street in Richmond Hill, New York.

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

Mr. Shepperd: I do.

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Ms. Bennett: Thank you.

Mr. McGuirk: Okay, go ahead Dan please.

Mr. Shepperd: Okay there were multiple, essentially two locations considered, and kind of the criteria was access from the exterior and this location was selected because it was considered to be the least, one of the reasons it was selected, was because it was considered to be very not visible, did not impact the visibility from the street. And also, another criteria was not interfering with the interior activities of the clients when they were there with their family and having the least impact on their activities on the inside. That is how we had arrived at this location, and Nicholas, if you could put up the view from the street, you can see that even though the elevator is in the drawing, it is not noticed, it is not seen, and so this would give you a good indication of how the visual impact from the street is, we consider, negligible.

Mr. McGuirk: And I do have, Mr. Ackerman did provide new packets, I do not know if you picked them up at Village Hall, but you cannot see it, in the new packet, the new design here, you cannot see it from the street, I agree with that Mr. Shepperd.

Mr. Ackerman: Linda, did you want to say something?

Ms. Margolin: I thought there might be some confusion on behalf of the Board Members, the location of the elevator does not require a side yard variance because the Village's enactments have exempted accessibility improvements from setback requirements and from lot coverage and the location of the elevator shaft here, if you look at the layout, is not only designed to provide access from the interior to other levels of the house, but also includes a pathway that will allow access that will avoid the front entrance which was not handicap friendly.

Mr. Ackerman: Thank you.

Mr. McGuirk: Thank you. I do not have any issues on this at this point.

Mr. O'Connell: Linda, I appreciate that and I was confused, so thank you for that clarification.

Ms. Sacasa: May I say something?

Mr. McGuirk: Yes, who is talking?

Ms. Sacasa: My name is Jane Sacasa, I am the neighbor to the west.

Mr. McGuirk: Hold on, Pam will swear you in, please.

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

Ms. Sacasa: My name is Jane Sacasa and I live at 3 Windmill Lane.

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

Ms. Sacasa: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead Mrs. Sacasa.

Ms. Sacasa: First I want to say that we are totally in agreement with the enclosure of the porch, it is not visible from our property and we are fine with that. We only have a question, my husband and I, as to the generator and we are wondering whether the proposed pit, they seem very close to the property line, and in the sea air where we are, very close to the ocean, noise travels very easily, and we are wondering whether that requires a variance, is there is any way that that generator from the pit can be within the building lot requirements and not need a variance.

Mr. Ackerman: We have not asked for a variance, the generator does not require a variance, Dan, do you have the specs for the generator? Is not the generator below grade?

Mr. Shepperd: Yes, and specifically it is in a vault, it is recessed into the ground and this is totally an acoustical consideration and it sends the noise directly up rather than out to the sides. This is at great expense than having it just sitting on the ground or in a shed and this way you avoid the visibility of the generator and the sound is directed straight up.

Mr. McMullan: And Mr. Shepperd, this generator pit location is actually in a conforming location, correct?

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Mr. Shepperd: That is correct. There is for accessory structures such as this, there is a different setback that is indicated on the survey there and that is within the setbacks.

Mr. McMullan: Thank you.

Mr. Ackerman: And Ms. Sacasa, this is Lenny Ackerman, if you have any problems with the noise from this generator, you call me personally, and I will give you my cell number. Mr. and Mrs. Robertson are the nicest people in the world, I know them personally, my daughter works for them, they would not want you to be discomforted in any way. If there is an issue, we will take care of it for you.

Mr. McGuirk: Is there anybody else...

Mr. Shepperd: If I may one comment?

Mr. McGuirk: Go ahead, Dan.

Mr. Shepperd: To keep in mind about the emergency generators, they run in times of emergency and once a week for 15 minutes for lubrications.

Mr. McGuirk: Okay.

Mr. Shepperd: And other than that, they sit there silent.

Mr. McGuirk: And just maybe the neighborly thing is to run, exercise the generator during the week when people are not around, that would be great.

Mr. O'Connell: John, I have a comment.

Mr. McGuirk: Go ahead, Phil.

Mr. O'Connell: Now that Linda cleared that up, I am fine with the plan.

Mr. Ackerman: Okay.

Mr. McGuirk: Okay, I think that we can close the hearing. Make a motion?

Mr. Humphrey: So moved.



Mr. McMullan: I make a motion.

Mr. McGuirk: Second?

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

Mr. Ackerman: Thank you Mr. Chair.

Mr. McGuirk: Thank you and if there is no other business, I would like to close the meeting. Like to make a motion?

Mr. Humphrey: So moved.

Mr. McGuirk: Second?

Mr. O'Connell: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

Mr. McGuirk: Okay, enjoy the day everyone.



**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, February 12, 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. The applications can be viewed on the Village's website [easthamptonvillage.org](http://easthamptonvillage.org) by clicking on the "Alerts" tab.

Application of Under One Roof LLC, SCTM#301-2-1-1, for Area Variances from Chapter 278, Zoning, to construct a new commercial building and construct additions to an existing commercial building containing a pre-existing nonconforming use. Variances are required pursuant to Sections 278-1.B.(2)(c) and 278-7.(c)(2)(d)[1] to permit the extension and alteration of a nonconforming commercial use in a residential zoning district where the extension or expansion of a nonconforming use is prohibited. An approximate 4,626 square foot variance is required from Section 278-3.A.(14) to permit approximately 14,626 square feet of gross floor area where the maximum permitted gross floor area for commercial buildings is 10,000 square feet. A 3,262 square foot variance is required from Section 278-3.A.(9)(a) to permit 84,260 square feet of coverage where the legally preexisting coverage is 80,998 square feet. The maximum coverage permitted by zoning is 18,994 square feet. The subject

property is 124,947 square feet in area and is located at 29 King Street in Residence District R-40. This project is classified as an Unlisted Action in accordance with SEQR.

Application of Wendy R. Serkin and Andrew E. Goldstein, SCTM#301-13-1-5, for Area Variances from Chapter 278, Zoning, to construct a shed and make alterations to an existing residence. A 20-foot variance is requested from Section 278-3.A.(5)(b) to construct a shed 0 feet from the rear yard lot line where the required rear yard setback is 20 feet. A 2.3-foot variance is requested from Section 278-3.A.(4)(a) to make alterations to a legally preexisting nonconforming residence located 31.7 feet from the rear yard lot line where the required rear yard setback is 34 feet, and any other relief necessary. The subject property is 40,054 square feet in area and is located at 87 Jericho Road in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Application of BG Development H LLC, SCTM#301-1-3-34.1, for a Variance from Chapter 250, Streets and Sidewalks, to allow two driveway curb cuts. A variance is requested from Section 250-23.B.(8) to permit the installation of two driveway curb cuts where the subject property is limited to one driveway curb cut leading to Conklin Terrace. The subject property is 19,310 square feet in area and is located at 39 Conklin Terrace in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Sanford Robertson, SCTM#301-10-1-19, for Area Vari-

ances from Chapter 278, Zoning, to construct additions to an existing residence and make alterations to accessory structures. A 617 square foot variance is requested from Section 278-3.A.(13)(a) to permit a residence containing 5,674 square feet of gross floor area where the maximum permitted gross floor area is 5,057 square feet. The legally preexisting residence contains 5,293 square feet of gross floor area. A 6.3-foot variance is requested from Section 278-3.A.(4)(a) to construct an addition 27.7 feet from the side yard lot line where the required setback is 34 feet. A 4.3-foot variance is requested from Section 278-3.D.(6) to permit the installation of a cupola/weather vane resulting in a detached garage containing a height of 24.3 feet where the maximum permitted height of a detached garage is 20 feet. A 6-foot variance is requested from Section 278-3.A.(5)(c) to make alterations to a pool house building located 34 feet from the rear yard lot line where the required setback is 40 feet. A 4.8-foot variance is required from Section 278-3.A.(5)(a) and a variance from Section 278-3.A.(5)(f) to make alterations to a garage located 50.2 feet from the front yard lot line where the required setback is 55 feet and to make alterations to a detached garage located in the front yard area, and any other relief necessary. The subject property is 40,818 square feet in area and is located at 130 Further Lane in Residence District R-160. 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: January 22, 2021  
By Order of John L. McGuirk III, Chairman  
Zoning Board of Appeals  
Inc. Village of East Hampton  
29-2



FILED

VILLAGE OF EAST HAMPTON, NY

DATE: March 12, 2021

TIME: 12:30 p.m.

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