

Zoning Board of Appeals  
April 9, 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  
Andrew Baris, Alternate Member  
Elizabeth Baldwin, Village Attorney  
Billy Hajek, Village Planner  
Andrew E. Goldstein, Applicant  
Jonathan Tarbet, Applicant and Attorney on behalf of 106 Briar Patch Rd LLC  
Paul Masi, Architect on behalf of 106 Briar Patch Rd LLC  
Bryan Grogan, Engineer on behalf of 106 Briar Patch Rd LLC  
Brian Matthews, Attorney on behalf of neighbors of 106 Briar Patch Rd LLC  
Lynn Tishman, Neighbor of 106 Briar Patch Rd LLC  
Peter Wolf, Neighbor of 106 Briar Patch Rd LLC  
Georgica de Havenon, Neighbor of 106 Briar Patch Rd LLC  
Barbara Terry, Neighbor of 106 Briar Patch Rd LLC  
Verne Cassin, Neighbor of 106 Briar Patch Rd LLC  
Rachelle Shaw, Applicant  
Laurie Wiltshire, Attorney on behalf of Daniel Faber, Rachelle Shaw, and  
Orion Properties, LLC  
Martha Reichert, Attorney on behalf of 38 Two Mile Hollow LLC  
Geoffrey Nimmer, Architect on behalf of 38 Two Mile Hollow LLC  
Tim Luke, Applicant, 37 Two Mile Hollow LLC  
Trevor Darrell, Attorney on behalf of Mr. and Mrs. Michael S. Hass  
Michael S. and Joan B. Hass, Applicants  
Andrew Goldstein, Attorney on behalf of 25 Cross Highway LLC  
Leonard I. Ackerman, Attorney on behalf of 25 Cross Highway LLC  
Richard E. Whalen, Attorney on behalf of Neighbors of 25 Cross Highway LLC  
Jason Nower, LTV Moderator  
Jody Gambino, LTV Moderator  
Pamela J. Bennett, Village Clerk

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Mr. Gambino: You guys are live.

### Minutes

Mr. McGuirk: Good morning. Welcome to the Zoning Board of Appeals for the Village of East Hampton, Friday April 9th. We have the minutes from March 12th 2021. Do I have a motion?

Mr. McMullan: I make a motion.

Mr. McGuirk: Do we have a second?

Mr. O'Connell: I second.

Mr. McGuirk: All in favor?

Mr. Rose: Quick point? John?

Mr. McGuirk: Yes.

Mr. Rose: Just there was one I think mis-transcription in discussing the 87 Jericho point, there was the word "apply" was used in one of my things, it should have been "imply." "I do not mean to imply" not "I do not mean to apply."

Ms. Bennett: I will change that.

Mr. Rose: Thank you. Sorry.

Mr. McGuirk: Thank you, Mr. Rose. Let us have a motion.

Mr. Rose: Yes, I am reading them.

Ms. Bennett: Good.

Mr. McGuirk: Good. So we will have that correction made. Do we need to make another motion then Pam?

Ms. Bennett: That is okay.

Mr. McGuirk: Okay. So we have the determinations. I am going to swing this over to Jim McMullan to do the first one.

D E T E R M I N A T I O N  
Wendy R. Serkin and Andrew E. Goldstein – 87 Jericho Road –  
SCTM #301-13-1-5

Mr. McMullan: Okay. In the application of Wendy R. Serkin and Andrew E. Goldstein, 87 Jericho Road, Suffolk County Tax Map Number 13-1-5, to construct a shed and make alterations to an existing residence is approved. Pam?

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: No.

Ms. Bennett: Mr. Rose?

Mr. Rose: I just want the record to reflect that I had asked that this matter be held over so that we could discuss it in a work session. I am not comfortable with the shed variance, I have no problem with the adjustment to the house, but I am concerned about the shed variance and I vote that down.

Ms. Bennett: Okay. Mr. Baris?

Mr. Baris: I have no problem with the application.

Ms. Bennett: Thank you.

Mr. McGuirk: That is a yes well...

Mr. Baris: Yes, that is a yes.

Mr. McGuirk: Thank you.

Mr. McMullan: Okay back to you John.

DETERMINATION

**40 Middle Lane LLC – 40 Middle Lane – SCTM #301-4-12-4.3**

Mr. McGuirk: So we have three other determinations here. In the application of 40 Middle Lane LLC, 40 Middle Lane, Suffolk Tax Map Number 4-12-4.3, to permit the transfer of 76,862 square feet of land area to an adjacent property identified as 50 Middle Lane is approved.

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

**7 Chauncey LLC – 7 Chauncey Close – SCTM #301-15-6-2**

Mr. McGuirk: The next determination in the application of 7 Chauncey LLC, 7 Chauncey Close, Suffolk County Tax Map Number 15-6-2, to construct a third story addition onto an existing residence is approved.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: No, well yes, they took the roof deck off.

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

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

Mr. McGuirk: And the last one in the application of Lily Pond Equities, 33 Lily Pond Lane, Suffolk County Tax Map Number 13-13-11.1, to delete condition F.5e of the Board's March 12, 2021 is approved.

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.

## DISCUSSION

### Joseph Bell and Peter Longo – 95 Davids Lane – SCTM #301-9-1-3.4

Mr. McGuirk: Okay so now we have the discussion for Joseph Bell and Peter Longo, 95 Davids Lane. Billy, are you on here?

Mr. Hajek: I am here Mr. Chairman.

Mr. McGuirk: Okay, do you want to maybe just give us a brief?

Mr. Hajek: Yes. So the applicant is requesting a modification of the prior Zoning Board, I am sorry I am getting a...

Mr. McGuirk: I am getting a feedback too. If you are talking, can we just please mute yourself, that would be great.

Mr. Hajek: Yes. I am not sure. It could be on my end.

Mr. McGuirk: Okay.

Mr. Hajek: But in any event, the DEC permit that was approved for the project recommended the existing deer fencing located on the easterly-most property line, which extends through the wetlands, remain for a period of two years in order to protect the newly-planted vegetation from deer browse. The approved plans that are on file show that fence to be relocated so in order for the applicant to keep the fence and in order for the Village to issue a C. of O., they would be required to you know the Board would have to modify their approval. So that is what the request is submitted by the applicant, is to allow the fence to remain in place for a period of two years.

Mr. McGuirk: Okay. Tom you are on here, Tom Preiato?

Mr. Preiato: Yes Mr. Chairman.

Mr. McGuirk: So the fence that is sits there, I mean we would not be able to would issue a C. of O. for the house for two years. How do we handle this?

Mr. Preiato: Yes. I mean that is, it would be difficult. I think something would need to be modified. And I mean on that, as far as the condition, I do not have the, it is not something that I can, it is not up for negotiation. I mean if there is a

condition by your Board, a quasi-judicial Board, they would be bound to that condition unless was to be modified.

Mr. McGuirk: Okay and if we modify it, how do we go back and, I mean it is already been in, it is already been there for about a year so I assume we have got another growing season. I think we have thought right, Jim? Did not you figure that out? Jimmy are you on here?

Mr. McMullan: Yes. I mean it seems like it is been installed. The plants have been installed as well and growing so I would assume that this is coming into the second growing season. So, if we were to let them keep this where it is for another growing season, it sounds like from Mr. Preiato that we do not have any recourse to make sure that they take that out. My feeling is that if, either that or we just do not issue the C. of O. until that is come into effect. I do not think the applicant would want to wait another year to get their C. of O. to occupy the building, but I would say in my opinion remove the fence now and let them get their C. of O.

Mr. McGuirk: Anybody else on the Board like to comment?

Mr. O'Connell: I am not sure if this is possible but can we modify the condition that the fence is to be removed at such and such a date as opposed to eliminating the condition? I do not know if that is a possibility.

Mr. Preiato: It is not ideal as far as the Building Department goes.

Mr. O'Connell: Okay well then, I am on Board with what Jim's saying then. Thank you.

Mr. Preiato: It is difficult to track it and then at that point it is just not a clean way to do it. Not saying that I am opposed or for but I am just speaking frankly.

Mr. O'Connell: Thank you. I understand the issue.

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

Mr. Rose: Nope.

Mr. McGuirk: Okay. Anybody else? Craig?

Mr. Humphrey: No, I am going to stay away.

Mr. McGuirk: Okay. I think the fence should be removed. I think that it was a big condition for the approval of what we let them accomplish there so I am in favor of getting the fence out of there. Okay. Any other? Pam, we do not have to vote on this because it is already part of the plans.

Ms. Bennett: Beth?

Ms. Baldwin: No, you do not have to vote on it. It is just the existing approval stands.

A D J O U R N M E N T  
**JABR LLC – 209 Further Lane – SCTM #301-5-2-14.2**  
**Under One Roof LLC – 29 King Street – SCTM #301-2-1-1**

Mr. McGuirk: Yes. Okay. Let us move onto the, we have two adjournments. JABR LLC 209 Further Lane to May 14, 2021 and we have the adjournment of Under One Roof LLC, 29 King Street until September 10, 2021. I assume the Under One Roof LLC will have to be re-noticed Pam because it is a little...

Ms. Bennett: Yes, I will re-notice it when the time comes.

C O N T I N U E D H E A R I N G  
**Daniel Faber and Rachelle Shaw – 70 Dayton Lane – SCTM #301-2-7-22**

Mr. McGuirk: Okay. So now we have the continued hearing for Daniel Faber and Rachelle, 70 Dayton Lane. Laurie, are you with us? Okay I guess Laurie's not here. They did submit a new plan to move the pool but I do not think personally I would like to see the pool moved to the center of the property. I do not know what any of the other Board members would like to say so any comments?

Mr. O'Connell: I concur with you Mr. Chairman that it should be centered so that it meets the setbacks on the sides.

Mr. McGuirk: Okay.

Mr. McMullan: I agree as well.

Mr. Humphrey: Is this going to get in the way of the effectiveness of the big fence at the back property line?

Mr. McGuirk: I do not think it is going to affect the fence at all.



Mr. Humphrey: There is a there is a bit of a safety issue in this because it is a pool next to an elementary school and that the tall fence adds some security of kids not getting into the pool. So if you move it does that reduce the safety that you get from the fence?

Mr. McGuirk: I do not, you have to have a fence around the pool by code to begin with so...

Mr. Humphrey: Yes.

Mr. McGuirk: Yes. So we just want the pool to be centered and away from the property line on the west side or the north side. So all right. What do we do if she is not here? Do we keep this open or do we?

Ms. Baldwin: Yes, I would keep it open. It is unusual for her to not appear for an application so I would keep it open and give her the opportunity to respond.

ORIGINAL HEARING  
**106 Briar Patch Rd LLC – 106 South Briar Patch Road –**  
**SCTM #301-12-4-21.1**

Mr. McGuirk: Okay. All right so we can move on to our new hearings. We have 106 Briar Patch Rd LLC.

Ms. Bennett: Application of 106 Briar Patch Rd LLC SCTM#301-12-4-21.1 19.2 and 20.2 for Variances from Chapter 278 Zoning and Chapter 163 Freshwater Wetlands to raze the existing improvements and construct a two-story residence, patios, retaining walls, and a swimming pool. A wetlands permit and variances are requested in accordance with Sections 163-2 and 163-3 and 278-3.A.(8) which require structures be set back 150 feet from wetlands and clearing be set back 125 feet from wetlands. Variances of 74.4 feet 75 feet 75 feet 131 feet and 52 feet are required to construct a two-story residence 75.6 feet from wetlands patios the nearest being 75 feet from wetlands a swimming pool 75 feet from wetlands fencing 19 feet from wetlands and a retaining wall 52 feet from wetlands. A 75-foot variance is requested from Section 278-3.A.(8) to permit clearing of vegetation and revegetation approximately 50 feet from wetlands where a 125-foot setback is required and any other relief necessary. The subject property is 79,032 square feet in area and is located at 106 South Briar Patch Road in Residence District R-160. The property adjoins Georgica Pond and the project requires a wetlands permit from the New York State Department of Environmental

Conservation. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Thank you. Jonathan?

Mr. Tarbet: Thanks, good morning. Jon Tarbet for the applicant. Also with me are the architects and the engineers for the project. I think the first thing you will notice when you look at this property is its unusual shape. It was a product of a 19, I believe it was '86 subdivision which separated from the property immediately to the south, and it really created like an hourglass-type property. So, when the client came to me, actually I represented him on the purchase, and we decided to re-develop the property. The first thing we ran into was the unusual shape. Because of setbacks and how narrow the property is, there is really nowhere further to build a house back than where we are proposing which is 75 feet from the wetlands. I think the second thing you will probably notice is how close the existing house is to Georgica Pond. It is actually, and it depends slightly on where the pond is, but at times in the Village files it is been called 16 feet from the pond and now it is 18 feet from the pond so the existing house is horribly nonconforming. There is some clearing, some lawn up to the pond, septic system is within jurisdiction, probably actually just a tank from our what we have been able to determine and it is probably 50 years old. The house was built in the 1970's.

Ms. Wiltshire: Hi I had trouble getting on but I am on now. I will get back to her.

Mr. Tarbet: Hey, Laurie, can you mute? So the existing improvements are horribly nonconforming to say the least. So the goal of all of us from the get-go is to try to design a house that would do no harm, and design the property in a way that would do no harm to Georgica Pond which can't be said for the existing house. So to do that we did a few things. One was we were able to locate a septic system, the new IA alternative innovative low nitrate septic system over 200 feet from the wetlands and then on top of that even though it is not required, we, and other people besides me will speak to this, but we added a wood chip polishing system which is going to result in between the distance of 200 feet the IA and the wood chips, I do not think objectively you could say that the septic system will be removed from doing any damage to Georgica Pond. The other thing that we did was we created a 50 foot, so I think as far as I can tell the two things, and I do not think anybody would disagree with this, the only two things that are hurting Georgica Pond and Georgica Pond is in horrible shape as we all know, are lawns and septic systems. So, by removing the septic system that was goal one. And two, is that we wanted to make sure that we did nothing as far as a lawn goes to hurt

Georgica Pond. So we propose a 50-foot scenic easement, and believe it or not, even though the property is really narrow in the middle it is got 300 feet of frontage on Georgica Pond, so a 50-foot scenic easement over 300 feet is a 15,000 square foot scenic easement which would provide an important buffer not only to keep any fertilizers or pesticides or runoff from the pond, but it also creates a nice habitat for whatever animals or butterflies and other important native animals around Georgica Pond. The third thing is we wanted to go even further than that, we created a 25-foot non-fertilization buffer beyond the 50 feet to further protect the pond resulting in 75 feet of buffer between proposed improvements and Georgica Pond. By doing this we are able to remove 3,341 square feet of improvements that currently exist within that 75-foot buffer. By relocating the house from 16 feet from 75 feet that is over a 300 percent improvement but it is actually better than that because if you look the shape of the pond and the shape of the property result in the house being askew to the pond so it is only just the tip of the house that is 75 feet from the pond. Some of the house is actually outside of the 150-foot setback and a good portion of the house, probably over 50 percent, is outside of 125 feet of the wetland. So when you say it is 75 feet from the pond it is actually significantly further than that whereas the existing house is 16 feet from the pond. We also, I do not want to speak about it because I think maybe Paul Masi the architect will speak about this or maybe the engineer, but we went further and tried to design a system so that any runoff from the house is captured and not allowed to enter the pond. It is probably a good point for me to stop.

Mr. Masi: You want to share it?

Mr. Tarbet: Yes, so, let the architects just do a very quick walkthrough of the project so you have an idea of what that looks like. They want to share our screen if that is okay.

Mr. Masi: Do you have everything?

Mr. Tarbet: I do.

Ms. Bennett: I will swear them in?

Mr. Tarbet: Okay give me one second. I just have to pull the .pdf up.

Ms. Bennett: Okay.

Mr. Tarbet: I think I may have deleted it. All right so I am going to go here. Where is it? Do you see it?

Mr. Masi: I do not know.

Mr. Tarbet: Sorry, give me one second, technical difficulties.

Mr. McGuirk: We understand.

Mr. Masi: So you can close that share screen now.

Mr. Tarbet: Now and do it again?

Mr. Masi: And try it again. There it is.

Mr. Tarbet: See it?

Mr. Masi: To the left.

Mr. Tarbet: Great. Do you see my screen?

Mr. McGuirk: We do.

Mr. Tarbet: Okay. Great.

Mr. Masi: Can we make that a little smaller?

Mr. Tarbet: Make what smaller? So you can see them?

Mr. Masi: Well no. No, so you can see the whole .pdf with the pages. Again, I can swear myself in. I am Paul Masi from Bates Masi Architects.

Ms. Bennett: And your address?

Mr. Masi: 132 North Main Street, East Hampton.

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

Mr. Masi: Yes.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead Mr. Masi.

Mr. Masi: Thank you. So, I just wanted to briefly talk about the design, the concepts and ideas for the house. I know Jon's speaking more about the technical aspects of the distances so I will leave that to him but in terms of our direction on this project, we wanted to give you a sense of how we are addressing Georgica Pond which is frankly is the biggest feature on this property. When we started the project, was really looking at the pond, and how that influences the design. Wait go to the next. Very good. These are things that I am sure you are all very familiar with in our research. Looking at one of the biggest current issues is the micro-algae blooms in the pond and how this affects the wildlife, people that use the pond, and their pets. And over time we have seen many methods, there is the aquatic harvester, there are the buoys that monitor the water level which would then sort of indicate times that it would be let, the pond would be let out into the ocean to restore the water quality, and also some of the recent improvements we have seen in the town are the bioswales that have been implemented. So these are all remedies that have been taken to control the micro-algae blooms in Georgica Pond. So in doing so, in the design of the house, we took some of those ideas and others and began to implement that informing the architecture and these are some projects that we worked on that had these courtyard bioswale strategies that is integrating the landscape but what it also does is any of the surface runoff can be filtered before it goes back into the pond. This is something that we have been actually working on with the town for a couple years. I do not know if you are familiar with the how pools work but they leech and they leak chlorinated water over time. And so, we have been working with a couple different companies and there are membranes that you can add in the construction of the pool that actually allow the pool to move and the cracks would not be affecting in terms of leeching or leaking water, it can span them and so the pool would be completely waterproof so that there'd be no leeching of chlorinated water over time into the ground. This is the wood chip polishing filter system. Brian Grogan would be speaking to us a bit further from PW Grosser. This was added in addition to the low nitrogen system and just some data on it, it is a conventional system, it is 65 milligrams per liter of nitrogen, the IA system brings it down to 19, this component would get it below 10 milligrams per liter. And then another component that we have been looking at the house is the roof shape as I will show you further on is capturing all the storm water runoff and not just putting it into the dry wells which is typically done, it is actually using it, storing a portion of it for the rainwater irrigation for any of the landscaping or gardens that will be on the project. So in this drawing if you can see facing towards the west, the red indicates the existing structure, the gray indicates the proposed structure so you can see the retreat, and then there is a series of dash lines that sequentially is 75, 125, 150 back to 200 and then all the way back to 300 feet. The house is set up so it is capitalizing on the water looking at

Georgica Pond and coincidentally which worked out very well is the sunset which is pretty much the orientation of the existing house. The form of the house is tapered because that is following our side yard setbacks. So really a lot of the form of the house was dictated by the envelope that was allowable. Now if you look at this, you will see that these blue arrows are indicating that collecting all the water from the roofs, sending it down into this rain garden a portion of it and then back, and so the main dry well that would be leeching the water is behind the 200-foot setback. Same thing for the septic. The green lines, tanks would be behind the 200 and the leeching field would be almost 300 feet so that is a significant difference between what's existing and what's proposed. So, there is a lot of strategies that you know at the cost of the client, be a good steward of the property, and in turn this sort of begins to shape the architecture and how you experience it. Here's a diagram. You can see the house. The blue kind of diagonal lines represent the rain and so the roofs slope in to kind of keep all the water within the property. And then here are a couple of model shots. We thought you might appreciate seeing it. That is it. Brian, would you like to talk about the septic?

Mr. Grogan: Sure.

Mr. McGuirk: So Brian, Miss Bennett has to swear you in. Pam?

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

Mr. Grogan: Brian Grogan. I am with PW Grosser Consulting, 630 Johnson Avenue Suite 7, Bohemia, New York 11716.

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

Mr. Grogan: Yes.

Ms. Bennett: Thank you.

Mr. Grogan: So as Paul and Jon have indicated, we are the civil engineer for the project. We designed the innovative alternative sanitary system as well as the dry wells and stormwater drainage for the project. The proposed IA sanitary system is a Fuji Clean unit. Based upon most recent county testing that Fuji Clean unit is on average averaging treating effluent nitrogen well below the 19 milligram per liter standard. In fact, it is about 10 milligrams per liter or roughly half of what the county is requiring. In addition to that, we have installed a wood chip polishing

unit which are being tested and piloted by the New York State Center for Clean Water Technology spearheaded by Dr. Gobler and his group at SUNY Stony Brook. Those polishing filters have been tested in other areas and have seemed to reduce nitrogen even further below the 10 milligrams per liter so this is an additional step over and above what would be required by the county to really reduce the effluent nitrogen concentration possibly down to you know levels of below five milligrams per liter. As Paul mentioned, we moved the sanitary system in essence as far away from the surface waters of Georgica Pond as we could. You know the existing system is likely within 75 feet and largely probably just one existing cesspool which was kind of indicative of the times when that house was built. So this is a major step up in that regard. The stormwater drainage, with nothing from the runoff of the roof, passing it through the storage chambers that can be reused and pumped out for irrigation use with the rain garden or other areas on the property such that it can be in essence retreated by the rain garden itself to remove any other contaminants, or you know nutrients from the storm water. Again, all of this was done in a purposeful way to you know improve or not to harm Georgica Pond in any way. Those are the major highlights from you know the civil engineering perspective. So I will turn it back over to the Board, and if you have any other questions, I will be here to answer them.

Mr. Tarbet: Thanks Brian. This is Jon Tarbet. The last thing I think I want to mention was that in addition to the pool being waterproof so that no leeching can possibly happen, this is the same sort of waterproofing that you would see on in a hotel where you have a second or higher floor pool where it literally no leeching or leaking can happen or you destroy your hotel. It is the same technology so the pool will not in any way leech or leak into the soil around it. But more importantly we also arranged to have the dry wells of the pool be more than 200 feet from Georgica Pond resulting in the pool having no perceivable or looking at it objectively negative consequence on the pond. And with that I think we have presented the project and ask the Board if they have any questions.

Mr. McGuirk: I think we will go to the, is there anybody else that would like to make a comment regarding this application that is on the Zoom call?

Mr. Matthews: Yes. Mr. Chairman, Brian Matthews here for certain of the neighbors if I can take a moment.

Mr. McGuirk: Okay go ahead Brian.

Mr. Matthews: Okay thank you. Thank you, Mr. Chairman, Members of the Board. Brian Matthews, Matthews, Kirst and Cooley, 241 Pantigo Road, East Hampton, New York, here on behalf of the Cassin family the owners of 112 Briar Patch Road Priscilla Rattazzi, one of the owners of 100 Briar Patch Road, which is just to the north, the Cassin property is just to the south, and Lynn Tishman, the owner of 126 Briar Patch Road, and the private Briar Patch Road itself, and I believe that a couple of them are on the line here as well and they want to just address the Board quickly when I am done. You know we submitted a letter yesterday afternoon and it stated in that letter, you know our clients have they have some significant concerns about the scope of this application, its potential impact on their properties, and on Georgica Pond. While there is certainly you know looking reviewing the application and hearing the presentation by the applicant's attorneys and agents, there is certainly some attendant environmental benefits to moving the house back to installing an IA septic system and to proposing a buffer area. It is our client's view and one which I share that any such benefits are essentially undone by the substantial increase in the area that is to be disturbed by this application, to be disturbed and built on within the wetland setbacks by this application. I mean I know it was referenced that some of the house is outside of the 150-foot area, but it is still 75 feet from the wetlands and a significant portion of the house is within that 75 to 125 foot area. So, I mean 75 feet being you know only half of what the what the code requires for wetland setbacks. And for instance, you have a 200 something percent increase in total lot coverage beyond what exists right now. You have an approximately 270 percent increase in the size of the house. The application proposes a couple thousand square feet of clearing within jurisdiction and a fairly expansive pool and pool patio on the water side of the house itself only 75 feet from the wetlands, but because of this substantial increase in the area that is to be disturbed and it was noted by the applicant and it is noted by everybody that Georgica Pond is a fragile water body. It is one that is already been significantly impacted. While pulling back from a minor structure that is there has a benefit in the abstract, the amount of disturbance that this application's going to propose we think, as I mentioned, undermines any environmental benefits and it is for that reason that we do not think this application, as presently proposed, meets the variance standards. In short there are alternatives to pursue. There is a conforming building envelope at the east end of the property. While that understandably may not be the preferred location for a number of different reasons, what's being proposed here, we think is just too expansive, for a property that itself is highly constrained both by because of the presence of the wetlands because of the topography that you can see on the scaled model that is right up on the screen right now and because of its layout. The project could be can be redesigned, I mean it is a beautiful design certainly, but it can be



redesigned, it can be scaled back to something that is more befitting of the property's constraints and the constraints because of the wetlands. And we think that, as proposed, we ask that the Board should take that same view as well. So, unless there is any questions for me at the moment, that is our client's concerns, restate what's in our letter, and I believe Lynn Tishman and Verne Cassin are both here as well. They should be on the line and they wanted to address the Board very quickly as well. Thank you.

Mr. McGuirk: Thank you Brian.

Ms. Terry: Excuse me, may I also address the Board after Lynn and Mr. Cassin have? Gentlemen thank you.

Mr. McGuirk: You may. So who would like to speak next?

Ms. Tishman: I can go first if you'd like. I am Lynn Tishman.

Mr. McGuirk: Okay good morning.

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

Ms. Tishman: Lynn Tishman, 126 Briar Patch Road, East Hampton.

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

Ms. Tishman: Yes, I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Good morning.

Ms. Tishman: Good morning. Just to make it easier because I am not that good at extemporaneously speaking may I just read what I wrote?

Mr. McGuirk: You can.

Ms. Tishman: I am the owner of 126 Brian Patch Road which my late husband built in 1980. And I also own the private oil and stone Briar Patch Road which allows access to owners on the road. So, we have been in the area for 40 years and I feel a responsibility for maintaining a safe, quiet, country feeling in our area and

maintaining the road which is particularly vulnerable to weather and heavy traffic. Just to clarify, the road is 50 feet wide with only 20 feet designated as a roadway. So approximately 15 feet on the easterly and westerly side of the road is a wooded area. I would like to highlight a few incidents I have already experienced with this applicant that have led me to mistrust his intentions and his willingness to comply with stipulations that might be put in place in the future. The first is the clearing of a wooded area without my permission. In anticipation of the closing of his purchase of 106 Briar Patch, I hired Walbridge Surveyors to put stakes in the wooded area to the east and west of my road to delineate my property line into the wooded area which is at the entrance of 106 Briar Patch, and also, is an area east of my road and west of the applicant's other property which is 19 Ruxton Road. Since I was not in residence in East Hampton at the time, I was informed that the area west of 19 Ruxton Road, essentially the applicant's other backyard, had been cleared without my permission. The clearing of this area opened up woods making the applicant's Ruxton Road property clearly visible, his house clearly visible to our private Briar Patch Road. Before the clearing, underbrush and thicket, which had grown over the years, had provided a sense of privacy, hence the name of the road Briar Patch. A portion of the wooded area is a reserve for which the applicant might have gotten permission but 15 feet of this area which was clearly marked with stakes was cleared without my permission or prior knowledge. When it was discovered, I contacted the applicant and he was apologetic saying he would not clear anymore and hoped that I liked how open and cleared out it looked. I advised him that this was private land and he needed my permission for anything further. The second incident was a delivery over my wooded area. After this unauthorized clearing, I was advised that a delivery tractor had driven up my private road crossed over the wooded area to deliver trees to be planted on his 19 Ruxton Road property instead of delivering them via Ruxton Road. Again, an apology and a blame to the landscaper who made a mistake. I think it is important to bring these two incidents to your attention which occurred in the winter of 2020 when I was not in residence in my East Hampton home. I was fortunate enough to have eyes and ears on the road and people around who care about the area. They happened before any plans for construction on this new property. Lastly, an observation on his 19 Ruxton Road house construction project. I was also witness for three years of trucks and construction equipment parked on Ruxton Road while the applicant's building project was underway on that street. I cannot imagine this happening on our private road where adults and children enjoy walking, running, biking, and riding golf carts up and down throughout the summer months. I am very concerned about what will happen if any project is approved at 106 Briar Patch. I have good reason to not trust this applicant. I believe he will do what he thinks is best for him and then apologize later after every tree and semblance of our private road is gone

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forever. I am also concerned about his compliance with any stipulations and wonder what enforcement mechanisms will be able to put be put in place. Apologies do not bring back vegetation that has been there for years. Thank you.

Mr. McGuirk: Thank you. Does anybody else have any comments?

Mr. Wolf: Yes, I would like to say something.

Mr. McGuirk: Good morning, Peter.

Mr. Wolf: Good morning.

Mr. McGuirk: Pam can you swear Mr. Wolf in please?

Ms. Bennett: Mr. Wolf, please raise your right hand and state your name and address for the record.

Mr. Wolf: Peter Wolf, 65 Briar Patch Road, East Hampton.

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

Mr. Wolf: Yes, I do.

Ms. Bennett: Thank you.

Mr. Wolf: I would just like to bring a couple of things to the Board's attention which are obvious but I feel constrained to say them. One is the applicant and his agent who helped purchase this property are totally informed people who knew what they were getting into, this is not a matter of any kind of surprise or inconvenience, it is a fully knowledgeable set of developer and an agent. The second point I would like to make is the zoning in the area is four-acre zoning R-160, this lot is less than two acres. This was also completely known by the purchaser and his agent. Third point I would like to make is that it was never mentioned by the architect or the agent for the owner that what's proposed is an eight-bedroom house. What's being proposed to destroy is something like a one- or two-bedroom house. The impact of that amount of habitation, eight bedrooms, that is up to 16 people at a time has an inevitable impact, a massive impact on the underlying environment no matter else is done to mitigate it including water usage and draw down of the sub-surface water. So, it has to be seen as a two-acre application in a four-acre zone. Itself the lot is nonconforming right from the get-

go. The size of the project proposed is massive eight bedrooms plus all the other amenities that will go with it, replacing a very small inconspicuous house that does minor damage to the physical environment, to the aesthetic environment. So just when you are thinking about this please remember that the lot itself is totally nonconforming and therefore does not deserve any kind of special bending on the part of the Board that you would not ordinarily do. Thanks very much.

Mr. McGuirk: Thank you and just for the record, Mr. Wolf did send an email to myself which I forwarded onto Pam which is part of the record also.

Ms. de Havenon: I would like to speak too John.

Mr. McGuirk: Hi Georgia. Pam, can you please swear in Ms. de Havenon.

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

Ms. de Havenon: My name is Georgia de Havenon. I live at 48 North Briar Patch Road.

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

Ms. de Havenon: Yes.

Ms. Bennett: Thank you.

Ms. de Havenon: Our family has had property emailed on Briar Patch Road since the late 1950s. I am going to read to you a letter that I an email that I sent to John. As you are aware, preservation is something that is of great importance to me and in that regard, I feel the zoning variances sought by the owner of 106 Briar Patch Road are unwarranted. Although the proposed residence will be farther from the wetlands than the existing residence, the footprint of the proposed residence that falls within the 150-foot setback will be roughly twice that of the existing house within that setback. The total size of the proposed residence would be three times the size of the existing structure. As we all know the pond is a fragile body of water and the setbacks the applicant seeks are disquieting. Further, in terms of re-vegetation, this is something that I know from personal experience is rarely successful. Either it is not carried out fully or non-native plants are used. In addition, there are numerous attendant problems including increased usage of the private road and the narrow Briar Patch Road. An additional strain on the water

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table that would be incurred with an eight-bedroom residence to name a few. From what I have discerned the owner who purchased this property was aware of what restrictions are in place and now it seems to me that he is trying to beat the system. Because the property is of a nonconforming nature and it is less than half the size of currently mandated lots in the Georgica area, I feel the restrictions should be enforced and attempts to significantly change the parameter of the lot and indeed the surrounding neighborhood should be denied. Thank you.

Mr. McGuirk: Again, for the record Georgia did send me an email to my office address which I did forward onto Pam. So would anybody else like to speak?

Ms. Terry: I would like to unless Jeanne and Verne want to speak first.

Mr. Cassin: I would like to say a few words but please go ahead.

Mr. McGuirk: Okay go ahead Miss Terry.

Ms. Terry: Thank you. I just wanted to...

Mr. McGuirk: Hold on.

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

Ms. Terry: Oh, sure, go ahead.

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

Ms. Terry: My name is Barbara Anderson Terry, our address is 97 Briar Patch Road.

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

Ms. Terry: I do.

Ms. Bennett: Thank you.

Ms. Terry: Thank you. I just wanted to reinforce with what both Lynn Tishman and Georgia de Havenon implied. A little bit of history, my husband and I have a property directly across the street from what was Mrs. John's property which we have admired for 25 years and when we purchased our property through a friend,

Billy Heppenheimer, who was alive at the time, we thought we had an easement over to the pond, but as Lynn knows, we found out that it was really a temporary easement for Peter Tishman to get water until he was fully developed on his lot. Our ownership of the property, when we purchased it, we knew that there was a small wetland that at the time Joan Hatfield from Twomey Lathan described in some proceedings for the Phillips as a puddle and that is what it is indicated as on the survey that George Walbridge did. But anyway because of the approved landfill by the DEC on the Whittle's property, before the Whittles owned it, we do not have the normal egress and ingress of the water from the pond. However, our puddle has become a very large pond because of the runoff from the road. And when the pond overflows, we have also had lots of flooding. When we first moved in, we put a row of pine trees along two parameters of the lot and 90 percent of them died because they were very often victims of drought and then of flooding. Anyway, we have spent years trying to come into a compliance for the present wetlands and the present regulations, but we have a very large scenic easement that has also been difficult for us and we think we are just coming to the end of it. However, this has been a very difficult and emotional project for us as East Hampton is determined, rightly so, to really preserve the beauty of the area, and even though people say you shouldn't take it personally, it is very hard to not take it personally when you are told by counsel that you really should not ask for any variances within wetlands because you will never get them, which we did not. We followed that logic and we just thought they know best, and my husband is a big environmentalist having been on the Board of NRDC for 18 years, chairman of the nominating committee etc. etc. but anyway, in fact when Mr. Hollander landscaped our paths to our back porch, we had some paths going toward Ruxton Road, and I can't think of the, what's the name of those nice neighbors, Stefanick towards the Stefanick property and then it goes a little bit to the left and down there we have two little low piers. One of those piers was four inches into our scenic easement and I begged our counsel to ask for a variance so that I would not have to pay to get those piers destroyed and rebuilt again. Again, no variance, destroy the pier and rebuild it six inches back which we did. Anyway, come to 2019 I guess just before COVID the summer before, and this nice gentleman drives up our driveway unannounced on a bicycle with a bottle of Pouilly-Fuisse, which happens to be one of our favorite white wines, and he's very charming and I am thinking oh my goodness, this is a wonderful new neighbor, we are going to all get along so well of course, my husband was much more circumspect and much more intelligent about the whole situation. Anyway Mr. Elecke's reason for the visit was that he wanted to take down all the pine trees and the few cedars and let me see there is a third one, oh it is an old bush, I can't think of it, but everybody had them years ago, they might have gotten a disease, excuse me, anyway he said he would do it at his

expense and he was already starting on his side so it was no big deal. He would take these down because he did not have enough light on his property. And because we had all the droppings from the pines, they did not allow us to have enough lawn and enough flowers and everything else. So I said well what is it on our side that you had in mind? With that he went home and got an orange spray can and sprayed all of our trees telling us that, this should go this should go, all the way down but of course he'd pay for the whole thing. Well, my husband was in disbelief and I couldn't believe he sprayed all the trees. Anyway, I then, because again we are trying to come into compliance with the village's restrictions or whatever you would call them instructions, and we had planted, we had replaced the dead pine trees with many other evergreens, not just pines, but oh I can't even think, I am not very good at speaking extemporaneously either, but a whole lot of plants to try to block out the huge new Kittredge house on the corner which the Phillips had also had a guest house there, and a little cottage for their help there on this small lot, anyway, we did that, they grew, but then a lot of them were non-native and the village wanted us to take them down. We went to the DEC. The DEC did not care if we took any of them down and they could not have been nicer and more polite to us by the way. We were so afraid we kept hearing oh do not get involved with the DEC but it was a very rewarding experience to see these were knowledgeable people who really wanted to help you. Anyway, the village decided they wanted them down. We took them all down. So now we look at the back of the Kittredge house and my husband and I will never live to see the day where the shrubs that Marders has put in at a very, very great deal of expense and our legal fees I might add have been very extensive. So and we do not have the deep pockets Mr. Elecke has. So let me come back to Mr. Elecke. The day he's sitting in our living room and I am Irish Catholic. I kiss the blarney stone I am sure this is much too long for all of you and I apologize, but I am going on to tell him that I love the neighborhood, we both do, it is so quiet and I have just been struggling to come into compliance with the village to get our lot approved so that I know that I have no more expenses on this bit on this site and then I would like to go across the street if hopefully Mrs. John's property is still available, and he said what is that you are talking about and I said well you know the one that supposedly and Jeanne Cassin can either confirm or not confirm this, but I had heard the rumor that Peter Solomon who rented it for years had offered twenty million dollars and it was turned down, but now they're only asking about eight million dollars because there are so many restrictions on the property. And even the most recent tenant, not the present one, but the one just before her told me it would be a great investment except for the Cassins want to make sure that nothing disturbs the area. I said, well that is a good thing, and in fact, I told Mr. Elecke that day that our hope was to purchase it so my husband and I could retire in the house the exact size that it is.

We love the idea of a tiny little cottage on the water with that magnificent view, and we would keep the larger house for the children, grandchildren and hopefully if we get to see great-grandchildren. And anyway, he did not know anything about it and he left and the next thing I know he's in contract to buy the property when he knew how badly we wanted that property. So then I called Mr. Tarbet which he can confirm, and I told him how shocked I was that anybody would do this and I said, Mr. Tarbet the least he can do is give us the easement that we thought we had to Georgica Pond when we purchased our property in 1996.

Mr. McGuirk: Excuse me, Mrs. Terry, can we focus on what your objections are to it?

Ms. Terry: Okay I am so sorry.

Mr. McGuirk: Not the history. Thank you.

Ms. Terry: Okay, okay, excuse me. So anyway Mr. Elecke has refused the right of way which is his prerogative, however, back to what Georgia and Lynn were saying all these gentlemen referred to the effect it would have on the pond as opposed to what effect it would have on the neighborhood. And in fact, Mr. Elecke did take down hundreds of trees by his own gardeners' admission on his property. We watched cherry pickers for months and months. And not only do we now look directly at his house and light, lights on whether they're there or not all night, but we also look through his property to the other property on Ruxton Road which I know Mr. Elecke and he do not get along. And the light pollution is just incredible. Now over there I know on the property that he's attempting to develop he will have so much light pollution and that will not just be an annoyance to us directly across the street and the Cassins and the Whittles but from what I understand turtles will not breed if there is a lot of light. And I am sure they're not the only species. So I am concerned about the light pollution. I am very concerned about the road because I know what will happen with all these huge trucks going back and forth. Our property is down sunken between the two high points at the top of Briar Patch Road in front of the Whittle property where it forms a T and toward the Overman property. It all comes down to where we are which is where that ravine once was between Georgica Pond and our now pond. So, I just do not see how the village could approve that type of construction that would not only affect wildlife and Georgica Pond but also the surrounding properties and the neighbors who would be subject to this for years and then the results I am sure would not be what his architects and engineers think they would be. One thing might be said but something else will happen.



Mr. McGuirk: Yes. Can we wrap this up a little bit now?

Ms. Terry: I am done, I am done.

Mr. McGuirk: Okay.

Ms. Terry: Thank you.

Mr. McGuirk: Thank you very much.

Ms. Terry: Thank you.

Mr. McGuirk: Mr. Cassin?

Mr. Cassin: Yes, I just have maybe 30 seconds.

Mr. McGuirk: Thank you.

Ms. Bennett: Let me swear you in.

Mr. Cassin: Yes.

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

Mr. Cassin: Hi I am Verne Cassin and we are, my family are the owners of the house next door, 112 South Briar Patch Road.

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

Mr. Cassin: Yes.

Ms. Bennett: Thank you.

Mr. Cassin: Okay. So, as I said, our family's been the owner of 112 South Briar Patch Road since 1895 when I confess from pictures it appears that my great-great-grandfather had a nonconforming pigsty about 20 feet from the road. But it is long gone. I grew up swimming in Georgica Pond and back then you know you would worry about the snapping turtles but not much else and they had a sort of mythical status, I do not think I ever actually saw one. As long as you were wearing a life jacket you know my parents were fine with me playing down there and wading or

you know playing around in the mud. And I have two little boys now one's five and one's three, and I won't let them swim down there anymore, and I won't let them play in the mud because it is not safe. And you know I am not saying that is the applicant's fault here. Obviously, it is not. He's new to the pond but it obviously is the fault of our communal and every human's desire to enjoy nature by getting in and shoving as much of it as we can out of the way. And that is exactly what this house is. And you know we can, I appreciate it that there are changes to the septic that are good, and there are you know improvements that can be made to the grass in front of the house and moving the house back is a good idea, but what's also happening is this vast expansion and the exploitation of the parcel of land. And you know despite what counsel said I hand can't imagine that that does not have an effect on the pond. And that seeing that won't have an effect of encouraging other people to get in and shove as much nature out of the way as possible. You know we do not like to have Versailles on the banks of Georgica Pond but it is not good for the pond and it is not good for the character of the neighborhood. And I also think it does make a difference to the neighborhood and to you know the enjoyment of the surroundings in you know a natural way when you have, you know if you walk down that pond or if you go past in a boat for the most part it is fairly circumspect and it always has been. There is been a sort of quiet pride that people have in having those briar patches you know and having being away and in being somewhat understated. And you know this house for all its virtues does not have any understatement at all. You know it is, it is an essentially an eight-bedroom guest house on the water's edge with a giant swimming pool. And so, I would encourage the Board just to be really careful about allowing this kind of thing.

Mr. McGuirk: Thank you Mr. Cassin. Any other neighbors? Okay. Billy, do you want to run through your memo?

Mr. Hajek: Sure. Good morning Members of the Board, Billy Hajek on behalf of the Village of East Hampton. If it is okay I am going to share my screen? So I can show you some aerials?

Mr. McGuirk: That would be great.

Ms. Baldwin: Pam, can you just swear Billy in?

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

Mr. Hajek: Billy Hajek, 88 Newtown Lane, Village of East Hampton.

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

Mr. Hajek: Yes, I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Okay. Go ahead Billy. Thank you.

Mr. Hajek: So can everyone see my screen?

Mr. McGuirk: We can.

Mr. Hajek: The aerial? Okay. So I submitted a memorandum to the Board dated April 1st. I won't read through it verbatim but I will give you a brief summary. I thought it was helpful to include an aerial photograph of the property. This is from 2006. It shows the unusual property boundary. As you see, this was a product of an early sub-division where there were two houses on one piece of property. When it was divided, the intent was to create each house on its own parcel of land. At the time the zoning district only required two acres of land area for a conforming lot. So, you will see that the property lines were drawn around the improvements to essentially create a two-acre lot for 106 Briar Patch Road. I will fast-forward to an aerial photograph, this is of 2020, shows the existing conditions as of fairly recently. So, as it is been indicated it is a 79,000 or roughly 80,000 square foot parcel. It is in the R-160 zoning district and it has about 295 linear feet of frontage on Georgica Pond. The elevations on the property range from sea level which is at the pond level to about 18 feet above sea level. The property generally flows from the highest elevations are in this corner of the property and it then it drops off to the north and it drops off also to the north and east. There is sort of a naturalized swale that runs along the north side of the driveway extending from Briar Patch Road and cutting all the way out towards Georgica Pond. So the property is improved with a residence, the plans call it out to be about 25,000 square feet. I measured the survey. I think it is more in line of about 1,711 square feet in size. I think when you include all of the attached decking and patios it is more in the range of 2,318 square feet. The sanitary system, although I had indicated it was unknown, I it was revealed to me on the survey that it exists somewhere in this area where my mouse handle is. I do agree with the applicant it probably preexists current regulations. I would assume it consists of a single leaching pool and with no proper septic treatment. There are a couple of prior Zoning Board determinations for this property. There was the variance that was granted when the property was created due to lack of street frontage on a public street. Then the

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Zoning Board in 1999 granted a variance to grant a wetlands permit to allow stabilization of the shoreline as it was eroding at that time and together with phragmites removal, those projects were executed and then subsequently to that, there was a plan here approved for further stabilization of the shoreline with coir logs and vegetation and I believe some of the coir logs still exist at the toe of the embankment. So the existing residence is located about 19 feet from wetlands. The proposed 6,350 square foot house represents a landward retreat and it is going to be situated 75.6 feet from the wetlands. While it is a 50 percent deviation or requested variance of the setback, I would reiterate that they're more than tripling the distance from the pond when compared to the existing residence. The plan showed a house would have a two-car garage attached to it, eight bedrooms, and there is a second story terrace along with first story terracing. The new IA system is in a landward direction further landward of the house. It is designed comply with the wetland setbacks which has been iterated. It is an IA system as Mr. Grogan indicated. The County requires the system be treated, treat effluent down to 19 milligrams per liter of effluent. The new Fuji Clean systems appear to be on average treating to about 10 milligrams per liter and the additional polishing treatment unit I think it is intended to cut nitrogen by 50 percent more. So there is arguably very little nitrogen being discharged. If the system is being properly functioning and properly managed, there'll be very little nitrogen discharge based on that new system. And it is my also my understanding that the polishing tank also removes pharmaceuticals and personal care products which may not be treated by the conventional system. The drainage and roof runoff is being handled within the interior courtyard and also on the landward side of the house. The grading and drainage plans were referred to the Village's Engineer and I will give you a brief summary of his report following my summary here. So, I broke my memorandum out into two parts of the project, one being the house, which I just discussed, the second being the swimming pool. And the project proposes a swimming pool that is 75 feet from wetlands where a 150-foot setback is required. You will see from the aerial there is no swimming pool on the property right now so they're introducing a structure that does not presently exist within the required setbacks. It is a, I guess a lap pool or described as a lap pool that is 11 feet by 76 feet long. It totals about 836 square feet in size, and the dry wells associated with that swimming pool are also positioned in a conforming location beyond 200 feet from wetlands. My one concern with the swimming pool which I pointed out in my report, this is a copy of the site plan, is that there is an area of native vegetation in this portion of the property which is required to be cleared in order to construct the swimming pool. In addition to which there is a swimming pool enclosure, a barrier fence, that is proposed to be weaved through the existing buffer area and wraparound on the property lines, and one of the suggestions I offered in my report

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was that alternative designs or locations for the swimming pool could obviate the need for clearing vegetation within the setback and also potentially eliminate the need or adjust the need for fencing that cuts through the wetland buffer.

Mr. McGuirk: And a lot of that vegetation, Billy, has been disturbed already where the pool...

Mr. Hajek: Yes. There has been as has been pointed out by some of the neighbors there is some clearing activity that is occurred on the property recently. It looks like trees were removed from the landscaped area and also, they whittled away some of the buffer area, some of the shrubs were topped, and some trees were removed from the water side of the house, the existing house.

Mr. Humphrey: Billy, before you go on, you had alternative places where you could put the pool? Could you point out a couple of those?

Mr. Hajek: Well, I mean the swimming pool could be redesigned on the, you know the water side of the house it could be redesigned in a fashion that presumably does not require any clearing of native vegetation. Alternatively, it could be positioned on the landward side of the house somewhere in here, it could be positioned somewhere in here. There are multiple locations, maybe not ideal but there are locations where you could fit a conforming swimming pool and not require any variances.

Mr. Humphrey: Yes thanks. Thanks.

Mr. Hajek: Yes so the project does propose to clear about 2,000 square feet of vegetation within the required wetlands setbacks. They are proposing a pretty robust 50-foot buffer. It does rely pretty heavily on grasses; one of my recommendations is that some of the vegetation be swapped out for shrubs. For any proactive re-vegetation, the Board, I have recommended in the past and the Board has been okay with maintaining the height of that vegetation at four feet in order to maintain views and vistas, and that is all purely for proactive re-vegetation in the form of mitigation, not manipulating existing native vegetation. The plan does call for restoration of the native existing buffer area by hand removal of the existing non-native vines and shrubs. I offer no objection to that but again I think the plan needs to be refined a little bit in terms of the density and the plantings that are proposed to replace the material that is to be removed. And I will just quickly go over Vinny Gaudiello's report this is from the Raynor Group and it is dated April 1, Vin had some specific engineering recommendations regarding details that are required on the plan in order for him to further evaluate the project and he is

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requesting some basic basically technical information. The crux of some of his report is really just to ensure that the grading is properly designed and will not impact or create stormwater runoff onto neighboring properties. He's asking for details about the retaining walls, some spot elevations and grades and the more important or critical component to this is the depth of excavation and the depth of improvements relative to the highest expected ground water. Vinny is asking for additional information to demonstrate if de-watering or temporary de-watering is going to be required for the project, and if it is how they're going to handle that.

Mr. McGuirk: And Billy, that would be, obviously depending on how full the pond is?

Mr. Hajek: Yes well, the groundwater table here fluctuates very dramatically. When the pond is let you can have test borings that show water is at, groundwater is at a foot-and-a-half or two feet or 2.2 feet above sea level. When the pond is full and the adjacent groundwater swells, you know I have seen test borings on the west side of Georgica Pond that show water tables, the groundwater table is at six to seven feet above sea level. So there is a very dramatic range in water elevations here and it is all dependent upon the water table of Georgica Pond.

Mr. McGuirk: Okay thanks.

Mr. Hajek: Aside from that I mean that is essentially Vin's comments. If the Board has any specific questions for me, I will be happy to try and answer them.

Mr. McGuirk: Joe or Phil or Craig?

Mr. Humphrey: Billy?

Mr. McGuirk: Craig?

Mr. Humphrey: Billy, has there been, in a lot of the projects we have looked at, there is a coverage max but there is no mas on the building structure itself. Why is that?

Mr. Hajek: The village regulates coverage. Coverage includes buildings and all structures except for driveways. So right now, this plan proposes a building that is under the allowable gross floor area and their coverage, permitted coverage for the entire property is 14,300 square feet, they're proposing 7,800 square feet.

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Mr. Humphrey: What's the limit on the structure? What is that? I did not see that on the survey?

Mr. Hajek: It is on the upper left-hand corner of the survey there is just some calculations for coverage.

Mr. Humphrey: No, not coverage. I am talking about the structure itself the building.

Mr. Hajek: Oh, that is on the architectural plans. The calculations? I do not know the coverage of the exact building, maybe the architect could provide that but I just know the gross floor area of the house that is proposed.

Mr. Tarbet: I may be able to answer Mr. Humphrey a little bit. As Billy was saying, this properly is actually allowed a much larger house and as part of our application early on, to be perfectly honest, the client wanted the largest house he could build on the property. And along with all these others things we have mentioned, we actually decided that that quite honestly that that size house would not fit on the property even though we could do it and meet all setbacks we voluntarily reduced the size of the house 20 percent below what will be permitted by code and coverage again is only half of what would be permitted. Now one thing, it is really important to consider something and that is, as part of this floor area calculation, we are including the 600 square foot garage. It is not habitable space but under the Village Code it is counted as gross floor area. This was again on purpose. We could've designed a garage outside of the 150-foot setback, but it would've added to sprawl and we have put things down that, now I apologize I am kind of jumping in here, you can stop me if, Billy, if you wanted to...

Mr. Humphrey: No, it is fine.

Mr. Tarbet: One thing I wanted to mention was along with the whole thing was to try to condense it and keep coverage as tight as possible. There is a conforming location for the pool as well along Briar Patch and that was considered, but again, that is a nice section, Briar Patch is a private road, and that is a nice section of woods, we really would prefer not to disturb that area and keep all development away from that so when people drive up and down Briar Patch, they continue to have that country feel. We would be willing to covenant that we would not put a pool there if we were able to keep the pool in front of the house along the water. I think that would probably be something the neighbors would really appreciate. And as far as, there is a little bit of additional clearing proposed for the pool on the water side of the house. If you've been up there, there is actually I was just there

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yesterday and there is, when we talk about clearing, we are talking about areas significantly above the bluff of Georgica Pond you know yesterday there were numerous flowers growing in there. So at times in the garden, they're heavily controlled with or littered with invasives. So yes, there would be a little bit of clearing, just a little bit, maybe under 1,000 square feet up above about 75 feet from the pond. But one thing we could do and I have discussed this was Billy recently was what we were proposing was a 50-foot scenic easement which is 15,000 square feet so it is not insignificant. But what we could do is we could increase that to 75 feet and with a 75-foot re-vegetated offer between the pond and all improvements, including the pool, that would get us a 22,500 square feet of vegetative buffer which, while not unprecedented on the pond, it would certainly be better than all the neighbors are able to provide with the exception of Mr. Cassin. His property is actually very, other than the extensive lawn, there is a nice buffer between the pond and his property. But everybody else, none of the neighbors who have spoken today could offer the Board anywhere near what we are proposing because of the septic system and stuff but certainly none of them offer a 75-foot vegetative buffer scenic easement between the pond and their improvements. So I just wanted to get that out there that while we did listen to all the neighbors and I do not want to go tit for tat, it would take too long and honestly a lot of those comments had nothing to do with the application. I will just say that I strongly disagree with a lot of the allegations that were untrue as I know them and I will leave it at that.

Mr. McGuirk: So, I had a few things. The cutting of the trees in the buffer area, I mean obviously you've I cut some trees up there that probably shouldn't have been cut, we have been up there several times so I am just curious how that happened.

Mr. Tabet: So I can answer that question.

Mr. McGuirk: Go ahead.

Mr. Tabet: Yes, so there were an extensive amount of trees cut on the landward side of the house. I know you are probably not talking about those or maybe you are but let me address those first. The landward side of the house is lawn and there are an extensive amount of trees or there were a number of trees in that area that were cut down to allow light onto the lawn and onto the house and also some number real nice trees that are there. So the trees that were cut down were number were aesthetically not nice trees. The trees that remain are nice trees. There was [inaudible] a lot of light and they are on the landward side of the house. I think it would be up to the village to tell me whether that is allowed or not. It



maybe not allowed in which case I apologize for that. The same thing goes, on the water side of the house you will see there is a very large I think it is black pine or pitch pine, that was left, there was one tree cut down that was in the middle of the lawn on the water side of the house that was, it was a large tree and if you look on the aerial photographs it is some sort of evergreen, but it was dangerous to the house and it was planted there. It was like a Christmas tree type tree. It had just grown so large that it was if it fell on the house, it would've been dangerous. And then other than that there was no, I think when we talk about clearing, there were a few trees cut down but there is absolutely no clearing that was done. Nobody, at least from what I can tell and from what the plans they propose, it was not touch anything that would require clearing. There were a couple very small trees vegetated areas that were completely covered in bramble and I believe that maybe the landscaper removed those because they were dead maybe or you know they were just completely covered in brambles, but they were very small diameter trees. It was just one large diameter tree cut down on the water side of the house which I mentioned was considered to be dangerous to the house. It was within the lawn area.

Mr. McGuirk: I would also like to see, I would like to see the house staked out on the property and the pool just so the Board can get an idea where it is going to be, if proposed, I would like to see a, provide us with a detailed landscaping plan with native vegetation not just grasses, okay? And we do not I do not want to see personally I do not know what the other Board members I do not want to see the swale filled in.

Mr. McMullan: I do not either.

Mr. McGuirk: Anybody else want to comment on the Board here?

Mr. Rose: I do have a question, Mr. Chairman.

Mr. McGuirk: Go ahead Joe.

Mr. Rose: I would just like to ask, a reference was made to having designed the property to minimize the proposed new house to minimize the impact in the area. Can the architect please just speak to how that was done because just have some questions in terms of whether the design including the interior courtyard part of it is in fact how that reflects the need to minimize the impact on the protected area.

Mr. Tarbet: Sure, knew let me let me get the architect. Give me one minute to get the architect.

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Mr. McGuirk: Well while we are waiting for the architect, we did receive some letters in the file this morning and Sure, yesterday so obviously we haven't had a chance really to read them. And we do have some outstanding information that we need regarding the engineer's report here from the applicant. And we are going to, you know this will be continued this hearing also but let us here from the architect right now.

Mr. Tarbet: So we are going to try to answer that question. We are not entirely sure that we follow it so you will help us work through it. Before Paul answers, I was just going to mention that early on in the process for design, obviously the way the property narrows in the hourglass shape presented some design constraints. So, we actually reached out to at least one of the adjacent neighbors to see if they would support, it is actually one of the neighbors who spoke, to the north, to see if they would support some sort of, and we, obviously their house happens to be maybe 300 feet away from our property. So, it is a significant distance through the woods. And we wanted to know if they would support us asking for minimal variances from their property line in order to change the design or shape of the house and we were strongly rejected in that. So then the house is naturally shaped by the setbacks from the property line and then to add to that a very purposeful decision was made to not come near what is permitted as far as gross floor area on the property. We did keep that 20 percent below what is allowed but that is including the garage and, again, the garage is specifically not, I guess we could ask for a front yard variance or maybe we would not need it because we are on the water but we could've put a garage out by Briar Patch Road but we really wanted to maintain that large wooded area between the house and the road. Though as far as I am concerned, and I was part of all these discussions early on, those were a lot of the design constraints and the reasons for the house, and I do not know Paul if you can help me. So we just, he we were just did some quick, the question was asked a few minutes ago about coverage, I think Mr. Humphrey asked the question, the existing house has, I am going to round up barely, 2,500 square feet of existing roof coverage, and the proposed house has 4,300, and I guess I did not round that one up, 4,325 square feet of proposed roof coverage. So you are approximately adding, are these the total coverage or is this...

Mr. McGuirk: And Jon.

Mr. Tarbet: Coverage yes.

Mr. Masi: Building coverage.

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Mr. McGuirk: Jon we do not think the current house is smaller than that, I think.

Mr. Tarbet: Yes, I think we are doing roof coverage, so I there are overhangs and you are right. The reason for the discrepancy between the 1,700 square foot, the existing house is closer to 1,700 square feet in gross floor area, the 2,500 square feet was taken, unfortunately, from a real estate advertisement for when the house was for sale so it was inaccurate because somebody had advertised it that way, but upon doing actual survey calculations and architectural calculations, the house is 1,700 square feet, however, it has overhangs. So the roof coverage is 2,426 square feet and the proposed house is 4,335 of total roof coverage.

Mr. McGuirk: Does anybody else have any comments on this?

Mr. Rose: If I can just go to the question, to the architect, there seemed to be confusion about my question so I just want to be clear.

Mr. Masi: Sure.

Mr. Rose: The question is how, reference was made I believe by the attorney but that may have been by the architect earlier that the house was designed to take into account and minimize the impact on the protected area and I am just wondering how, if you can speak to that in regard to the interior courtyard and how that relates to the protected area.

Mr. Masi: So the way that the house is designed, can I share the screen? It is right there.

Mr. Tarbet: Sure.

Mr. Masi: While Jon is trying to pull up the presentation that we went over earlier, I can speak about that. So the way that the roof is shaped is that it is capturing all of the water internally instead of, typically the roof shape is pitching it off towards the edges of the house, this is now funneling it towards the central bio-swale courtyard which is where the water is going to be directed into several different areas. One is to irrigate the courtyard, second is going into the gray water storage tank that would be used for just general irrigation on the property, and third is any overflow would go to the dry wells which are out by the driveway which is about 200 feet from the wetland setbacks. Does that answer...

Mr. Rose: Well now I guess the point is the introduction of the interior courtyard seems to increase the footprint of the house in the protected area so I am just

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asking a question in terms of how that, because the, I believe the attorney made the representation that the house was designed to, in awareness of the protected area and to minimize the impact that I am seeking the architectural justification for the interior courtyard which seems to be...

Mr. Masi: Right, well it, yes, so there is the exposure on the westerly side of the house which is towards the view and towards the sun. If you took that and you compressed it back towards Briar Patch Road, what you'd end up doing is losing your exposure along that side but you would also be burying the room so that the internal spaces, therefore, you know some of these rooms would not have access to light or air as much as if you introduced the small courtyard which allows to capture the water.

Mr. Rose: I hear you.

Mr. Masi: As you can see it is a different shape in terms of our typical work but it is really driven by the setbacks. You know, there there is a lot of these external influences. The setbacks from the pond both of the side yard setbacks, the pool setbacks, and it really comes almost to a point- in the center of the property where you just couldn't build anything there. So there was a lot of balancing.

Mr. McGuirk: Mrs. Terry, could you please mute? Thank you.

Ms. Terry: Oh, excuse me.

Mr. O'Connell: The courtyard, the purpose of the courtyard is to, one of the purposes is also to kind of clean the rainwater like the bio swale by Town Pond, is that correct?

Mr. Masi: Yes.

Mr. O'Connell: And that extends out to the front of the house also. is that correct?

Mr. Masi: That is exactly right.

Mr. O'Connell: Okay. Thank you.

Mr. Tarbet: It actually does a pretty good job of showing that, I do not want to over-exaggerate but it looks close to 50 percent actually, about 50 percent of the house is behind the 125-foot setback as you can see. The 125-foot setback runs through the middle of the house, and a portion of the house is behind the 150-foot

setback. It is just a coincidence of orientation in setbacks that a corner of the house is 75 feet which, while we would've liked to have avoided that, a majority of the house is significantly further back from the wetland. And again, it is super important to remember that the existing house that is there, I mean this is a great photo to show the retreat that we are able to accomplish, a portion of that existing house is 18 feet from Georgica Pond so the net, well actually there is, I do not think anybody thinks there will be any detriment to the pond from this house based on the fact that we are able to locate the septic system and all the rainwater and the pool dry wells more than 200 feet from the pond, but more importantly what we are now offering is a 75-foot vegetative buffer which again if everybody on Georgica Pond was able to locate their septic systems 200 feet from the wetland and offer up a 75-foot vegetative buffer, I think we all agree we'd be able to swim in Georgica Pond again.

Mr. McGuirk: Okay, thank you. I think we have some letters we need to read from yesterday and today.

Mr. Wolf: John, could I ask a question?

Mr. McGuirk: Go ahead Peter.

Mr. Wolf: There hasn't been any disclosure about the driveway. It is a very long driveway and what its surface made of? Where exactly does it course? Can you tell us about that?

Mr. Tarbet: So yes, we are following, you see it in the town all the time in their ZBA decisions they require this and we are following that which is it is a crushed local gravel, so it is pervious.

Mr. McGuirk: And you will be following the basically the same driveway that is there?

Mr. Tarbet: It is probably the same driveway. Same entrance. It is not exactly the same but as you can see it is pretty similar.

Mr. McGuirk: Okay. So I think we will reconvene this meeting. We will not have a May 14th meeting right, Pam? We will have a...

Ms. Bennett: That is not determined, I think we will.

Mr. McGuirk: Okay.

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Ms. Bennett: Depending upon who's going to be there so let us see.

Mr. McGuirk: All right. So I think at this point we should, what, do we adjourn the meeting? We do not close the hearing obviously but -

Ms. Bennett: Correct.

Mr. McGuirk: Okay so we will adjourn the meeting until the next time we meet.

Ms. Bennett: To May 14th and then if it has to be adjourned again depending upon the information that comes in.

CONTINUED HEARING

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

Ms. Bennett: Mr. Chair, do you want to go back to the Faber and Shaw application?

Mr. McGuirk: Yes, we can. I see Laurie on here.

Mr. McGuirk: So Laurie I think the consensus of the Board is that we'd like to see the pool centered on that you know get it away from the, Billy or Jonathan, can you take this down, the map here so we can see Laurie.

Ms. Bennett: He's working on it.

Mr. McGuirk: Laurie we'd like to see the pool moved more to the center of the yard.

Ms. Wiltshire: So they were trying to center it on the house and keep part of the yard open for their anticipated grandchildren...

Mr. McGuirk: Yes, we understand that but I think the Board really wants to get it away from the neighbor.

Mr. Tarbet: Excuse me, so we are done on here so I could actually, if I close out, I will stop sharing that is what we want, right?

Mr. McGuirk: Yes please.

Mr. Tarbet: Okay I am closing out and I thank you for your time.

Mr. McGuirk: Thanks Jonathan.

Ms. Wiltshire: So that is also the neighbor that wrote a letter in support of this application, the one on that side of the property.

Mr. McGuirk: I think we'd still like to see the pool centered.

Ms. Wiltshire: So I believe that Rachelle is on the phone. Do you want to say anything Rachelle? Are you there Mrs. Shaw?

Ms. Shaw: I am here.

Ms. Wiltshire: Did you want to speak to the Board?

Ms. Shaw: Can you hear me?

Mr. McGuirk: We can.

Ms. Shaw: Okay. I am Rachelle Shaw and my husband and I own the house. And so, I would like to say something is this the appropriate time?

Mr. McGuirk: It is.

Ms. Shaw: Okay. I will make it quick.

Mr. O'Connell: Pam has to swear you in.

Ms. Shaw: Okay, I will raise my right hand.

Mr. McGuirk: Pam?

Ms. Shaw: Do you want to swear me in or not?

Mr. McGuirk: We have to find our Pam here.

Ms. Shaw: I will tell the truth.

Mr. McGuirk: Pam are you around or?

Ms. Baldwin: I think you can do it, John.

Mr. McGuirk: Please raise your right hand.