

Zoning Board of Appeals
May 14, 2021
11:00 a.m.
via Video-Conferencing and
Published by Local TV Inc.

Those present were:

Philip O'Connell, Acting Chairman
Craig R. Humphrey, Member
Joseph Rose, Member
Andrew Baris, Alternate Member
Vincent Messina, Village Attorney
Lisa Perillo, Village Attorney
Billy Hajek, Village Planner
Leonard I. Ackerman, Attorney on behalf of Calvin Klein
Lee Weishar, Woods Hole Group for Calvin Klein
Richard Warren, Inter-Science for Calvin Klein
Justin Willard, Hollander Landscape Design for Calvin Klein and
13 Sarah's Way, LLC
Nicholas Spadola, Ackerman Partners on behalf of Calvin Klein
Martha Reichert, Attorney on behalf of 38 Two Mile Hollow LLC
Tim Luke, Applicant, 38 Two Mile Hollow LLC
Linda Riley, Attorney on behalf of Mr. and Mrs. Stefanick
Paul and Maureen Stefanick, Applicants
Alice Cooley, Attorney on behalf of Cathleen McLaughlin and
13 Sarah's Way, LLC
Jonathan Tarbet, Attorney on behalf of The Susan A. Karches 2009 Revocable
Trust and Botanical Garden, LLC
Michael Derrig, Landscape Details on behalf of The Susan A. Karches 2009
Revocable Trust
Britton Bistran, Agent on behalf of Hook Pond Lane LLC
William Rutledge, Architect on behalf of 13 Sarah's Way, LLC
Scott Sottile, Architect on behalf of 13 Sarah's Way, LLC
Thomas Osborne, Attorney on behalf of Robin B. Shahani
Robin B. Shahani, Applicant
Jody Gambino, LTV Moderator
Pamela J. Bennett, Village Clerk

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WELCOME TO NEW ATTORNEYS

Mr. O'Connell: Good morning everyone, I would like to welcome everybody to the ZBA meeting for Friday, May 14th at 11, I would like to call this meeting to order. Just a side note, because we are on Zoom, if you are not speaking, please mute to reduce your feedback. Our first order, I would like to introduce our new Village Attorney, Vincent Messina, he is with the firm of Messina, Perillo and Hill, if he is not available, Lisa Perillo will be sitting in or Tim Hill. So who do we have today?

Ms. Messina: We have Ms. Perillo with me as well, she just turned her camera off.

Mr. O'Connell: Okay, welcome, we are happy to have you.

Mr. Messina: Thank you so much.

MINUTES

Mr. O'Connell: First order of business is the minutes. Has everybody had an opportunity to review the minutes? Any comments, changes, fixes, anybody?

Mr. Rose: Just one grammatical change, I will point it out to Pam, it should have said has as opposed to is on one of my comments.

Ms. Bennett: I will search for that.

Mr. Rose: My second grade English teacher would be appreciative.

Mr. O'Connell: Send it over to Pam and we will have her make it, so motion to accept the minutes?

Mr. Rose: So moved.

Mr. Humphrey: So moved.

Mr. O'Connell: All in favor?

Mr. Rose: Aye.

Mr. Baris: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Thank you, Pam, for doing a wonderful job as always. Next, we move onto the determinations. Pam, do I read these?

Mrs. Bennett: Yes.

DETERMINATION

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

Mr. O'Connell: Okay, so we have three determination, the first in the application of Daniel Faber and Rachelle Shaw, 70 Dayton Lane, Suffolk County Tax Map number 2-7-22, to legalize two air conditioning units is approved and to install a swimming is denied. Do you want to poll the Board, Ms. Bennett?

Ms. Bennett: Sure. Mr. O'Connell?

Mr. O'Connell: I agree.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

DETERMINATION

Michael S. and Joan B. Hass – 19 Dunemere Lane – SCTM #301-9-4-1

Mr. O'Connell: The next determination in the application of Michael S. and Joan B. Hass, 19 Dunemere Lane, Suffolk County Tax Map number 301-9-4-1 to construct an addition to an existing residence is approved. Ms. Bennett, would you poll the Board please.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Humphrey?

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Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

Ms. Bennett: Mr. Baris?

Mr. Baris: Yes.

DETERMINATION

Orion Properties, LLC – 40 Further Lane – SCTM #301-9-6-10.3

Mr. O’Connell: In the application of Orion Properties, LLC, 40 Further Lane, Suffolk County Tax Map number 301-9-6-10.3 to make alterations to a single-family residence is approved. Ms. Bennett, please poll the Board.

Ms. Bennett: Mr. O’Connell?

Mr. O’Connell: Yes.

Ms. Bennett: Mr. Humphrey?

Mr. Humphrey: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

MODIFICATION

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

Mr. O’Connell: All right, moving on. We have a request for a modification of a variance already approved for Calvin Klein at 75 West End Road. Who is speaking for the applicant?

Mr. Ackerman: I am, Phil. This is Lenny Ackerman. Rich Warren is also available to delve into this if anyone has any specific questions but this is all part of a housekeeping measure. We are moving ahead to implement the determination that was granted last fall, and, as part of the process, the new landscape architects

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have requested this modification, and I think Billy has pretty well set forth the terms and what the request is and his support is indicated that it is a plus in terms of adding to re-vegetation in the more specific areas that are impacted by CELA and by the wetlands setback line. As you all know, this is a very constructed property and he want to make as much effort as possible to benefit by the re-vegetation work, both the CELA area and the wetlands.

Mr. Messina: Mr. Chairman, if I may make an inquiry, please?

Mr. O'Connell: Yes.

Mr. Messina: So, Mr. Ackerman, and Billy if you could just both weigh in for the sake of efficiency for the Board, what is being proposed here is now a superior plan from a number of standpoints than the one that was previously approved by the Board. Billy, is that correct?

Mr. Hajek: Good morning, I am Billy Hajek. Yes, there is no net reduction in the overall clearing. Re-vegetation is being relocated to areas that are arguably more sensitive within the dune setbacks so I offer no objection to the proposed change or modification.

Mr. Messina: Mr. Ackerman, is my summary fairly accurate?

Mr. Ackerman: That is correct, yes.

Mr. Messina: Thank you Mr. Chairman, I apologize for interrupting.

Mr. O'Connell: Lenny, are you finished with your...

Mr. Ackerman: Yes, yes I am.

Mr. O'Connell: Is there anybody from the public that would like to make any comments on this application?

Mr. Gambino: There are several callers on the line, I can unmute them in order.

Mr. O'Connell: Let us see if anybody has any comments on 75 West End, Calvin Klein, and then we will have some comments. Anybody?

Mr. Gambino: Unmuting the first caller. Caller, you are on the air.

Mr. Weishar: Yes, this is Lee Weishar, I am the consultant with Lenny Ackerman for the application so I have no comment.

Mr. Messina: So I think he is in favor.

Mr. O'Connell: Yes, I would guess that. Anybody else?

Mr. Gambino: Second caller, unmuting you now.

Mr. Warren: Hi, this is Richard Warren from Inter-Science here on behalf of the applicant. You will just note that there is an actual increase in the buffer that is proposed, there is a net 2,030 square foot increase in areas on the property that would become planted with native vegetation over what was proposed previously and approved by the Board.

Mr. O'Connell: Okay, any other callers on the line?

Mr. Gambino: Yes, let me unmute the third caller. Caller, you are on the air. It does not seem like they are there. One more caller, let me unmute them. Caller, you are on the air ending with 1573.

Mr. Willard: This is Justin Willard with Hollander Design, here for any questions or comments.

Mr. O'Connell: Okay, and that is all the callers we have, correct?

Mr. Gambino: That is all the callers right now.

Mr. O'Connell: Do any Board Members have questions for the applicant?

Mr. Rose: Yes, I do, I have a few.

Mr. O'Connell: Okay, Mr. Rose.

Mr. Rose: A couple of questions regarding the maps and the survey. So, I noticed that what is referred to as the snow fence and some of the garden that exists, crosses over the property line, or seems to cross over the property line into the area of the Village property owned by the Village/Town. That seems to be the case if you see to the western side. Can someone speak to that?

Mr. Ackerman: This is Lenny, I will speak to that. Joe, I...

Mr. Spadola: In existence for years.

Mr. Ackerman: Yes. You know I did not see that show up previously on any survey readings but if there is an encroachment there on the Village right-of-way, we will have to deal, I will have to deal with the Village Attorney about that. I was not aware of this encroachment.

Mr. Rose: You can see it now, right?

Mr. Ackerman: I see it, I see it, right.

Mr. O'Connell: You will have that corrected.

Mr. Messina: In point of fact, we are not approving a site plan here, we are approving the vegetation portion only, that is all that is before the Board for, however, we will make clear in any decision the Board issues that we cannot and will not approve any encroachment onto anyone else's property, and that is to be worked out with the applicant and the property owner whoever that may be so to be clear we are not approving that.

Mr. Ackerman: Joe, is that a snow fence? Is that what that is?

Mr. Rose: It is a snow fence and looks like the garden is on the Village property, this all ties into the vegetation, I am aware of what we are approving and what the basis is, it is a modification to an existing plan. There is a referral in the description that there are a bunch of rocks has been noted on West End Road that people have placed for obvious reasons. They are trying to discourage parking. Do we know who placed those rocks there so that there are some that are on the Village property on both sides of the street.

Mr. Ackerman: Are they on the survey?

Mr. Rose: If you go to the...

Mr. Spadola: I do not see them on the survey, this is Nick Spadola, I do not them on the survey, all I see is the private road aka West End Road.

Mr. Rose: It was mentioned in the report, Lenny, in the report that you submitted.

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Mr. Ackerman: Right, I think we had to, for 69, I thought we had to remove those which we will but I will look into that. Actually, Joe, I am more concerned about the other encroachment because, we will resolve that separately.

Mr. Rose: And the third question, this is a question in terms of the reason for this application being modified is to increase the amount of usable space in the as of right portion? Is that correct?

Mr. Ackerman: Yes, that is correct.

Mr. Rose: Do you have any sense of what it is that is contemplated to be done in that area?

Mr. Ackerman: They are considering as part of the overall site plan and the re-development of the property, perhaps to modify the pool and also perhaps to put in a tennis court or something like that or expand the gardens or whatever. As you know, because of the setbacks, there is a very limited area here for accessory structures so they want to utilize as much as they can that is between coastal erosion and between the wetlands setbacks from the pond but there is nothing definitive yet. Whatever we do of course it would have to be as of right or require any further variances but we are trying to implement a plan that will serve for the filing of the Building Permit within the sunset provision and that is what we are up against here, Joe. We need to get filed, we need construction protocols and we cannot work under a prior landscape architect's plan, we have to have our own plan. In fact, our architect has changed here as well so there are new architect's plans as well so we are trying to get a package together just to clarify as much as we can here so that we have a clear path to filing before the fall sunset provision.

Mr. O'Connell: So, if there is a new architect, are you coming back with a new house design that we are going to have to consider for additional variances?

Mr. Ackerman: No, no, we need a new architect to do construction drawings for a Building Permit. No, no, we are not coming back for that. I am trying to do this simply. This stood out as an issue, Joe, because when the landscape plan was done, inadvertently, they encroached upon as of right areas for accessory structures and that is what is being cleaned up now.

Mr. Rose: And then just underscoring what you said before, so this being done, because the re-vegetation, once done should be done and not, I just would say that it would be important to understand, the application, understanding why this is

being made not to come back for additional things, oh, we got it wrong back when we did this vegetation, it will not allow for a tennis court or whatever it is that is coming in, we have to rip everything up and do it again.

Mr. Ackerman: No, no, this is the final plan. This will have the landscape architect on it and the pressure of doing this, again, I appreciate Pam's cooperation in getting this on the calendar and Billy's cooperation in working with us over the last month is to do the housekeeping so that we are in a position, we are filing for, last week we filed for Health Department, there is an awful lot that needs to be done here to go in and file for a Building Permit, construction protocol, and as part of the construction protocol, we have to have the final plan, the final re-veg plan but the building itself, the footprint, none of that is changing.

Mr. Messina: Just to be clear, I know Mr. Rose is not telling you that you are prohibited from coming back and making more applications, you can do that, but what he is saying is that the Board would be less tolerant of that, is that right, Mr. Rose, is that a fair way of saying it?

Mr. Rose: I think the point is is that we are trying to look at this as a whole property and it should not be...

Mr. Messina: Right, you cannot do the Pac-Man thing but we just want the record to be clear, we are not prohibiting, nobody is asking to prohibit you from...

Mr. Ackerman: No, these are good points, Joe. This encroachment thing first of all is something that we have to deal with right away. Okay, thank you.

Mr. O'Connell: One other question. Billy's comments will be incorporated and the findings and conditions will be reenforced in any resolution amending the original determination?

Mr. Ackerman: Yes.

Mr. Messina: And that is the way the decision will be written which will specifically incorporate, and Mr. Chairman you make a good point, we probably should, again, just for a clean record, incorporate the previously held proceedings on this parcel, in this application into the record here today so that it is complete.

Mr. O'Connell: Does anybody else have any comments? All right, do I have a motion to close the public hearing, oh no, we do not have a public hearing, I am sorry, it is a modification.

Mr. Messina: Right.

Mr. O'Connell: All right, so the next step is, I have not done a lot of modifications before...

Mr. Messina: So, I think perhaps what you would want to do is if you are inclined you can approve the modification subject to the written decision which will be voted on at the next meeting.

Mr. Rose: If we have a Work Session coming up, why do we not just get it done for then and then plan approving it at that point, it is coming up in two weeks.

Mr. Messina: All right.

Mr. O'Connell: We can do that.

Mr. Messina: Mr. Ackerman?

Mr. Ackerman: Thank you very much everyone, bye, bye.

Mr. O'Connell: So, Pam, put that on the Work Session?

Ms. Bennett: Sure.

ADJOURNMENTS

Mr. O'Connell: Thank you. Next, we have adjournments. Do you want to read the adjournments, Pam? The requests for adjournments? You are muted. Still muted. All right, I will read them. We have requests for adjournment from JABR LLC, 209 Further Lane, we have a request for adjournment for 106 Briar Patch Rd LLC which is 106 South Briar Patch Road, and we have a request for adjournment for 25 Cross Highway LLC, 25 Cross Road. Do I have a motion to accept those adjournments?

Mr. Humphrey: So moved.

Mr. O'Connell: All in favor?

Mr. Rose: Aye.

Mr. Humphrey: Aye.

Mr. Baris: Aye.

Mr. O'Connell: All right so those will be adjourned until the next meeting.

CONTINUED HEARING

38 Two Mile Hollow LLC – 38 Two Mile Hollow Road – SCTM #301-10-1-32

Mr. O'Connell: Next we move on to the continued hearing of 38 Two Mile Hollow LLC, 38 Two Mile Hollow Road, who is here for the applicant?

Ms. Reichert: I am, Martha Reichert, Twomey, Latham, Shea, 33 West Second Street, Riverhead, New York, and I am here for the applicant 38 Two Mile Hollow LLC.

Mr. O'Connell: Great, would you like to present?

Ms. Reichert: Sure, since the last hearing, we took the Board's comments into consideration, we revised the planting plan, we submitted it to Billy Hajek for his review, Billy said that, and of course I will let Billy speak for himself, but that we had incorporated the Board's comments and that he had no further comments for the plan so we are hoping that we will be able to get the Board's feedback on our new plan which basically at issue was the application was originally to plant several arborvitae south of the 20 foot contour line. The Board asked for us to use native vegetation which we have done. We are now going to be planting Eastern Cedars in that location and we would like to get the Board's feedback on that right now.

Mr. O'Connell: Anybody from the public want to speak?

Mr. Gambino: There is one caller, let me unmute them.

Mr. Luke: May I speak?

Mr. O'Connell: Sure.

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Mr. Luke: Thank you, this is Tim Luke from 38 Two Mile Hollow, thank you so much...

Mr. O'Connell: Hang on, I think we have to...

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

Mr. Luke: Thank you so much. My name is Tim Luke from 38 Two Mile Hollow Road.

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

Mr. Luke: I do.

Ms. Bennett: Thank you.

Mr. Luke: That you all so much for meeting with us again, we appreciate it very much. Your comments from last month, I think our goal here was to just provide some bit of screening for the house from a very large public carpark which is next to the house in order to provide screening for the children and the family as you look in from the carpark into the house. The Board, you had suggested, as Martha just said, that we should absolutely use native trees rather than our original suggestion was using green giant trees and we are obviously keen to do exactly what you would require us to do in terms of having native trees and we have now sourced it, developed the plan with the appropriate native trees as you have suggested and shown and worked with Billy on that submission so I was very grateful for your time.

Mr. O'Connell: I have a question for you Mr. Luke. When you purchased the house, the vegetation was not there, correct? You could see the carpark when you purchased the house?

Mr. Luke: When we purchased the house, the house had never been lived in previously so we obviously assumed that it would not be contentious to screen the house, that was always our position, that there was such a large carpark looking in that we assumed that it would be possible to have screening in order to have some sense of privacy in that area. So, we are just now trying to do that in a manner that

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is totally compliant with whatever you would require us to do in the best way for the community.

Mr. O'Connell: Are there any other callers on the line that would want to comment on this application?

Mr. Gambino: There is one caller, let me unmute them. Caller ending with 1573 you are on the air. I do not think they are there.

Mr. O'Connell: Okay. Billy, do you want to give us a summary, you wrote a nice report on this for us, I thank you.

Mr. Hajek: Sure. Good morning Board, Billy Hajek, the Village of East Hampton. As Martha indicated, after the last hearing we had reviewed and discussed alternatives, they came up with a plan that proposes a landscape of native cedar trees. I find that the plant selection to be considered native for the area. I offer no objection to what they are proposing here.

Mr. O'Connell: Any Board Members have any questions of the applicant or for Billy? All right. I make a motion to close the Public Hearing.

Mr. Rose: So moved.

Mr. O'Connell: All in favor?

Mr. Humphrey: Aye.

Mr. O'Connell: All right, should we go over this or should we send this one to Work Session? Anybody have any objections to taking a vote on this now? Joe? Craig?

Mr. Rose: I am good. Do we have to draft a determination?

Mr. Messina: It would be subject to a written decision, of course, whatever vote you take would be subject to a written decision that gives me a clear indication though how to write your decision.

Mr. Rose: Why do we not just get into the practice of having the decision, unless there is a problem in terms of timing, let us have the determinations in advance of the vote.

Mr. Messina: Exactly.

Mr. O'Connell: I think polling, everybody is clearly in favor of this. Mr. Messina?

Mr. Messina: Very good, I have my direction, thank you Mr. Chairman.

Mr. Luke: Thank you gentlemen.

Ms. Reichert: Thank you everyone.

ORIGINAL HEARING

Paul A. and Maureen M. Stefanick – 43 Ruxton Road - SCTM#301-12-9-11

Mr. O'Connell: All right, next we have Paul and Maureen Stefanick at 43 Ruxton Road. Pam, do you want to read the Public Hearing notice please.

Ms. Bennett: Application of Paul A. and Maureen M. Stefanick, SCTM#301-12-9-11, for Variances from Chapter 278, Zoning, to legalize and expand coverage with the construction of patios. A 795 square foot variance is requested from Section 278-3.A.(9)(a) to allow 17,573 square feet of coverage where the legally preexisting coverage is 16,778 square feet and the maximum permitted coverage by zoning is 14,513 square feet, and any other relief necessary. The subject property is 80,133 square feet in area and is located at 43 Ruxton Road in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Linda Riley for the applicant, correct?

Ms. Riley: Yes.

Mr. O'Connell: Do you want to take it away?

Ms. Riley: Sure. The legally preexisting coverage I think is ascertained by looking at the prior survey that was done in '04 after the swimming pool was finished, there was a new swimming pool put in after '04, actually it was put in in '03 or '04. There is a December 2004 survey that then resulted in a C.O. on the entire property after the new pool was finished that shows everything that was on the property at the time. I think I submitted a copy of that survey with the application so you have it. If you compare that survey that was the subject of the

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prior C.O. with the new survey, you will see that there are some really minor things, structures, as it is interpreted now, that are shown and depicted on the new survey that do not appear on the older survey. Those things are so minor that they include the following: a trash bin on the north side of the house, a couple of stepping stones leading up to that trash bin, some widening of the preexisting walkway by the back door which is in the crook of the house, the house is kind of L shaped, and in the center of the crook of the house you will see where the back door is and there was some widening of the preexisting walkway there, some window wells, and then there were things that were there before but were not shown on the prior survey like window wells, they were there before, just not shown on the old survey because they did not used to be considered structures. Same thing with the a/c, there was a/c there before, it is just not shown on the old survey because there was a time when we did not consider air conditioning units to be structures, and walls. My clients say the walls were there before, even though they were not depicted on the old survey, the retaining walls, the decorative walls. So, some of the differences between the old survey and the new survey I think are attributable to increasingly strict interpretations by the Building Department over the years of what constitutes a structure, and there were some very minor adjustments done by the homeowner not imaging that something like widening a preexisting walkway to the back door could somehow involve a variance application or even a Building Permit application. On top of that there was a 2015 change in the law which changed the calculation for lot coverage. It was, prior to that, 20 percent and 20 percent plus 500 square feet on a lot of this size and now it has been reduced as a result of that 2015 law down to 10,000 6,500. So, what we are seeking to do here is legalize those kinds of minimal structures, they are all low-lying that were put in prior to, that are already there, they are there, and to legalize a new proposed patio which would be 288 square feet to accommodate a new barbeque area. There is an existing barbeque area, the proposed barbeque area will go in exactly the same location as the old one, it is an enlarged barbeque area, it has become commonplace in this neighborhood and other places in East Hampton I think to have sort of outdoor kitchens, if you will, with cabinets and stuff in relation to the barbeque area. We would argue that under the criteria that you have to consider that these are really not going to have any impact on the neighborhood whatsoever, the neighborhood is, all the lots are similarly improved with similar kinds of amenities. These are low lying structures, as low as ground level, they are screened from neighbor sight, there are no neighbors who can see anything. In fact, the new barbeque area is really closest to a lot line that is, it has a reserve area on the other side so it is really not going to disturb any homeowner usage. We argue there is no other alternative for achieving the goal of having a modern kitchen barbeque area, these have become common accessories and

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because we are already over lot coverage, there is no way to avoid a variance application. I would also make the point that this type of variance has been granted many, many times in the past by the Board and I would welcome any questions you have. I know that Mr. Stefanick is also available, he has asked for the link, if you have any questions of him or me, I am happy to have them.

Mr. Humphrey: Linda, I have a question.

Ms. Riley: Sure.

Mr. Humphrey: Maximum coverage used to be 14,500 square feet plus, now the legally preexisting coverage is quite a bit larger than that, 2,000 more.

Ms. Riley: Yes.

Mr. Humphrey: What is the maximum now?

Ms. Riley: The maximum, well actually 16,778 square feet is permitted, allowed because it is preexisting, I would argue, although that might not be the calculation under the current Code that is what is allowed. The calculation under the current Code would be 14,513 square feet.

Mr. Humphrey: That is right.

Ms. Riley: 14,513 but much of it, some of what is there now is grandfathered, it is preexisting because it was put in before the Code changed in 2015.

Mr. O'Connell: Craig?

Mr. Humphrey: So when the proposal comes back, what do we look at as the max, max coverage?

Ms. Riley: Well, your max coverage is what is approved by you today in the future, if nothing is approved by you, the max coverage, I would argue, is 16,778 square feet.

Mr. Messina: The max coverage, I want to weigh in on that, the max coverage is whatever the statute permits unless modified, as Ms. Riley said, by the Board.

Ms. Riley: I think we are saying different things. I think they are entitled...

Mr. Messina: We may but that is my position as Counsel to the Board is that you get whatever the statute permits and if you have anything different than that, it is only pursuant to whatever approvals you may have had in the past by this Board or otherwise.

Ms. Riley: Okay.

Mr. Messina: I mean if you are legal nonconforming, just because of the passage of the statute then you were legally built at the time that you were established.

Ms. Riley: So you would agree...

Mr. Messina: Something either the statute or the Board would have had to increase it over whatever the current statute permits.

Ms. Riley: That is right, okay.

Mr. Messina: I think we are saying the same thing.

Ms. Riley: I think we are saying the same thing, there is a C.O....

Mr. Messina: Right, if you have a C.O. that is it, that is right.

Ms. Riley: Yes, so what I am measuring against is the survey that accompanied the last C.O., I am measuring against that.

Mr. Messina: Right.

Mr. O'Connell: Craig, any other questions?

Mr. Humphrey: No, as I understand it, if we accept the proposal for today, then in my understanding of this, that will be the max.

Mr. O'Connell: Yes, that will be the new max, that is correct.

Mr. Humphrey: Okay. I have no more questions.

Mr. O'Connell: So you would be moving from 16,778 up to 17,285.

Mr. Rose: So the existing Code would say...

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Ms. Riley: If you are building it...

Mr. Rose: I know the question I want to ask, let me just make sure I ask it in a way that is clear. The original coverage maximum prior to the 2015 change was what?

Ms. Riley: Prior to the 2015 change it was...

Mr. O'Connell: It was 20 percent plus 500.

Mr. Rose: I know...

Ms. Riley: You want to know what that number is?

Mr. Rose: I want to know the change in the numbers, the actual change. So, it was X, then it went X minus something and then the existing built condition is X plus something and now it is being asked for is X plus, plus. I just want to know what those numbers are.

Mr. O'Connell: So it was approximately 16,526 square feet, it was 16,778, that is the 20 percent plus the 500.

Ms. Riley: That was 16,526 square feet to be exact, that was what was allowed in 2015.

Mr. Rose: Got you, and what exists now is what?

Ms. Riley: What exists now is 16,778 square feet.

Mr. Rose: Got you, and what is being asked for is?

Ms. Riley: We are asking for new coverage, totally new coverage of 288 square feet, and we are asking you to bless, if you will, the continued maintenance of existing coverage that is not specifically covered by the last C.O. which is 507 square feet for a trash bin and some stepping stones and stuff like that.

Mr. Rose: Understood. So the question, Mr. Chair, can I ask a question?

Mr. O'Connell: Yes, please.

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Mr. Rose: So it goes to, I visited the property, it is lovely, it seems to have a comfortably sized barbeque. I understand the desire to increase the scale of the existing outdoor kitchen. My question is why is it not possible to accommodate the expanded kitchen within the existing extensive patio areas and coverage that you have. Why do you need additional relief in order to...

Ms. Riley: Well, I can let the homeowner answer that but I think part of it is because the patio around the pool, which is the area that you must be talking about, is really sort of just large enough for some chaise lounges and an eating area. I mean it is not a very huge area around the pool that is next to the barbeque area and it that has been there forever, I mean it has been C.O.'ed, that has been there for quite a long time, since the house was built, and it is an adequate area for what it does now which is support some lounge chairs, but not adequate for the kind of barbeque area that he wishes to have.

Mr. Rose: Understood. I just want to say that it is not clear to me that a case has been made in terms of why it is that it is necessary to expand the degree of coverage in order to accommodate additional. The approval of the existing conditions, and blessing that which is already there, I understand, and I think a case has been made, it is not clear to me why the additional.

Ms. Riley: I submitted the plans for the barbeque equipment that he wishes to add, and I submit that it would really take up the entire patio there on the south side of the pool. What the criteria is, if I may say, is not what is necessary...

Mr. Messina: Ms. Riley, no, what it is is whether or not there is a way to obtain the benefit sought by the applicant by a method that does not require a variance, and I think that is exactly what Mr. Rose is saying.

Mr. Rose: Yes, thank you.

Ms. Riley: Okay, well the benefit that he is seeking is a larger barbeque area without disturbing his existing improvements.

Mr. Messina: Well, it is the latter part of that is where you get into your trouble, right, so you can have a larger barbeque but sometimes you cannot have everything.

16439

Ms. Riley: Is Mr. Stefanick on the line because I think he should be able to address why he cannot achieve the benefit he is seeking in any other way; he is personally going; he is the one that is going to be affected by this.

Mr. O'Connell: We just have to swear you in Mr. Stefanick.

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

Mr. Stefanick: Paul Stefanick, 43 Ruxton Road.

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

Mr. Stefanick: I do.

Ms. Bennett: Thank you.

Mr. Stefanick: So, I think I would first echo what Ms. Riley has said that the, we could not move the barbeque to the existing patio area around the pool because you would have a barbeque about two feet from the pool. It is not practical to do that. The impetus for this was we have a grill that has, that is on sort of a substantial piece of stone, and the grill is old, it has to be replaced, it was existing there and that structure is really kind of falling apart so we said why do we not just reconfigure the grill to something that is more suitable and a little bit more updated. So in so doing to make it more useful space in creating an area that is just a little bit more convenient I think it adds about 200 square feet, I do not know the exact right number, and that is kind of the issue to just put in what we would like to have and do it in a way that is certainly not going to interfere with anything any of the neighbors would do, it just makes it a more usable space and there is no other place to put and so that is really the, as it stands right now, when we use it, we are standing on grass because there was not the lot coverage so we thought it would make much more sense as opposed to creating a muddy area while we grow into to have a little bit of additional space to do it properly, that is all this is. We are not looking to build a huge compound or anything, what was there was pretty much there, we are just trying to make it a little bit more user friendly, that is it.

Mr. O'Connell: Anybody else have questions or comments so we can close the hearing? Motion to close the hearing?

Mr. Rose: So moved.

16440

Mr. O'Connell: All in favor?

Mr. Baris: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

Mr. O'Connell: I will send this, Joe, send this to Work Session or...

Mr. Rose: For discussion purposes?

Mr. O'Connell: Or discuss it right now?

Mr. Rose: I think we should discuss it at Work Session.

Mr. O'Connell: Okay, very good. Pam, put that on for the Work Session.

Ms. Bennett: Will do.

ORIGINAL HEARING

Cathleen McLaughlin – 121 Pantigo Road - SCTM#301-4-4-27.6

Mr. O'Connell: Next we have, Cathleen McLaughlin, 121 Pantigo Road, can you read the hearing notice, please.

Ms. Bennett: Application of Cathleen McLaughlin, SCTM#301-4-4-27.6, for Area Variances from Chapter 278, Zoning, to construct a swimming pool. Two (2) 8.5-foot variances are requested from Section 278-3.A.(5)(c) to construct a swimming pool 11.6 feet from a side yard lot line and 11.6 feet from a rear yard lot line where the required side and rear yard setbacks are 20 feet, and any other relief necessary. The subject property is 19,639 square feet in area and is located at 121 Pantigo Road in Residence District R-20. This project is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Who is here for the applicant?

16441

Ms. Cooley: Good afternoon Board Members, I guess it is still morning, my name is Alice Cooley of Matthews, Kirst and Cooley at 241 Pantigo Road in East Hampton, I am here on behalf of the applicant. I would like to share my screen if you do not mind.

Mr. O'Connell: Go ahead.

Ms. Cooley: Can you see it?

Mr. O'Connell: Yes.

Ms. Cooley: All right, I did it, great. So the applicant's goal here is to construct a new pool while keeping the existing house. The configuration of the house makes citing the pool difficult because the front of the lot is not perpendicular to any lot line, it creates a triangular shape in the rear yard here that you can see. The existing pool is at the end of its lifespan. Rather than replace the existing pool in its current location, which is right over here, the applicant would like to construct a new pool at what is effectively the rear of the property in order to increase safety in the pool area for her children because visibility from the interior of the house is very low where the existing pool is and the rear of the house has very large windows that look out upon the proposed pool area, and to increase privacy for the pool area and also for the neighbors to the south. The existing pool is slightly more conforming than what is proposed but it is in a very bad location, it is exposed on the east side here, it shares a property line with the Verizon property and also the neighbors to the south here at 123 Pantigo, their house is very close at about 11 feet from the property line so we believe the relocation of the pool to the rear yard will actually ultimately benefit not only my client but the owners of 123 Pantigo because it will be much further from their house. The existing pool is also currently shaded most of the day, the proposed pool is smaller and it is only 10 by 22 but perhaps most importantly no neighbors will be negatively affected if these variances are granted. So, to the rear here we have an ag reserve, it fronts on Pantigo Road, and then it wraps around the rear, and on the east here we have the Verizon property. This Board actually acknowledged the noise generated by the Verizon property in 2014, it granted a variance for a sound attenuation fence for the applicant's property at a height of eight feet to provide sound attenuation from the condensers and the generators that are right around here on the Verizon property, I would like to share some photos. This is the farm on 27 which you have all probably seen, it is just west of Town Hall and if you look back here you can see that it wraps around and it goes behind the Verizon property and my client's property. This is the Verizon building on Pantigo Road. Over here you

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can see the neighbor's house at 123 Pantigo, this is the side of the Verizon building, here you can see the sound attenuation fence that is on the McLaughlin property. This is the front of the McLaughlin house, this is the existing pool area, you can see the house in the background, this is the house at 123 Pantigo, this is the rear where the pool is proposed and you can see that sound attenuation fence, this is facing the Verizon property to the east, this shows the rear of the house, you can see it has a lot of windows and large glass doors, here is a closeup of that sound attenuation fencing and you can actually see the Verizon building a little bit here too, and lastly, this is the farm fields from the backyard, you can see it is actively farmed and it is an agricultural reserve area so it will always be actively farmed hopefully. I am happy to answer any questions and I can go through the variances standards if you would like. Maybe I should stop screen sharing.

Mr. O'Connell: I have a question. The existing pool as I recall is in a conforming location currently because of the way side yard setbacks were calculated prior to the Code changes, is that correct?

Ms. Cooley: I would say that that is 99 percent correct. It is actually my understanding that it was an interpretation of how alternative setbacks were calculated previously where instead of just counting, you know, this is a conforming lot in terms of lot width but I think they used to consider on flags they would count the flag strip so it is a little bit of a technical answer there.

Mr. O'Connell: And now you are asking us to put it in a nonconforming location that requires a side and a rear yard setback.

Ms. Cooley: Exactly, and the affected neighbors are commercial.

Mr. O'Connell: Right and the variances are about 50 percent each from the setback, a little bit less.

Ms. Cooley: A little less.

Mr. O'Connell: A little less. And your client just purchased this in 2020 as I recall.

Ms. Cooley: Exactly.

Mr. O'Connell: So they kind of went into this with eyes wide open.

Ms. Cooley: Exactly.

16443

Mr. O'Connell: If you want to run through the variance standards and then I will see if anybody from public and then we will hear from the other Members of the Board.

Ms. Cooley: Sure. So, no undesirable change will be produced in the character of the neighborhood nor will any detriment be created. The applicant does not anticipate that either the Verizon property or the neighboring farm will be negatively affected by this grant. The purpose of the double setback for pools is to reduce the effect of noise and we do not anticipate that these neighbors will be negatively affected by pool noise. The benefit to the applicant cannot be achieved by another method. Because of the lot configuration and the strange triangular shape in a rear yard, the pool is modest, and the applicant could rebuild the existing pool in place and in kind but it would not be of the same benefit to the applicant, and my client's primary concern really is safety for her children. As you saw from the photos, the rear of the house has quite a bit of window and she wants to be able to see her kids in the pool even though they are old enough and they can swim without supervision. In the context of this particular property, the variance is not substantial because the effects are not to a residential use, they are to a commercial use on each side and the proposed variance will not have an adverse impact. I believe that this Board has granted similar variances in the past for properties that border commercial properties. The alleged difficulty you could argue was self-created because she did purchase the property in this configuration, however, she could re-construct the existing pool, she would just like to improve the outdoor space for herself and her family and make it more enjoyable.

Ms. Bennett: Tom Osborne, Tom Osborne, mute yourself.

Mr. Osborne: I am just listening, I am sorry, mute.

Ms. Bennett: Please.

Mr. O'Connell: And Alice, can we get the screen back please.

Ms. Cooley: Yes.

Mr. O'Connell: So, if there is nobody on the line that wants to speak, can we get any questions or comments from the Board Members?

Mr. Humphrey: I have a question, I think I know the answer but the coverage actually increases with the new pool, is that correct?

16444

Ms. Cooley: Yes, but that also includes some other proposals.

Mr. Humphrey: I know.

Ms. Cooley: But it is within the allowable.

Mr. Humphrey: I think the coverage is actually, I am sorry I think the coverage goes down. You go from coverage of 3,866 to 3,350.

Ms. Cooley: That is exactly right. That is because she is removing that whole side area is patio and there is also the patio in the rear which she wishes to remove.

Mr. Humphrey: Okay, that is what I thought. My only other comment is I have talked to a couple of people that live in the complex and I am not sure there is anything that can be done about this but one person is concerned about the noise and you cannot remove a pool and reduce the size of a cement patio without making noise. How long is this going to go and is there anything you can do about it?

Ms. Cooley: Well, my client does not intend to build this summer, she wants to wait until the fall because she does not want to disturb her neighbors, I know that her the neighbors did reach out to her with that concern so she is happy to accommodate schedules, etc. I also know that demolition happens in a day, I just did this at my house, so the installation of a new pool does not actually take that long, it takes about a week, and yes, it is an inconvenience but as neighbors and living in East Hampton I think we know that it is something that we all have to put up with and it is a relatively minor ask in terms of timing.

Mr. O'Connell: Joe, Andy, do you have any comments?

Mr. Baris: I have a question Mr. Chairman? Andy Baris, nice to meet you Alice, what is the age of the pool and also the property to the south, anyone on the line, have you spoken to them, do you have their support?

Ms. Cooley: I have not spoken to them directly, I do not have their support, they are not an affected neighbor. I know that my client has had conversations with them, they were concerned about if she would be constructing the pool this summer and she agreed not to do that.

Mr. O'Connell: Joe, any questions?

16445

Mr. Rose: No.

Mr. Baris: What is the age of the pool?

Ms. Cooley: I am just checking on that, if you do not mind giving me a minute because I do not know off the top of my head, I just know it is in bad shape. I am going to guess 2009.

Mr. Messina: And do we have a copy of the C.O. in the file? I did not see it among my documents.

Ms. Cooley: I have it, we just got an updated one.

Mr. Messina: Okay so it should be indicated on there, no?

Ms. Cooley: The age of the pool?

Mr. Messina: When it was C.O.'ed, that would indicate age.

Ms. Cooley: No, it just lists the structures. There have been a number of C.O.'s.

Mr. Messina: Well you have a Certificate of Occupancy to the existing pool, correct?

Ms. Cooley: I have the Building Permit here and that was applied for in 2009.

Mr. Messina: So at the oldest it is going to be 2009.

Ms. Cooley: Correct.

Mr. Messina: Okay.

Mr. O'Connell: Any other questions? All right, motion to close the hearing?

Mr. Humphrey: So moved.

Mr. O'Connell: Second?

Mr. Rose: Second.

16446

Mr. O'Connell: All in favor?

Mr. Baris: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Does everybody know where they kind of land on this one so we can poll the Board and get a determination or do you want to send this to Work Session?

Mr. Rose: Let us have the, if we kept our practice of just having the determination so we vote, we see what we are voting on, I think there is support for it.

Mr. O'Connell: All right, so let us send this to Work Session.

ORIGINAL HEARING
The Susan A. Karches 2009 Revocable Trust – 5 Egypt Close –
SCTM#301-4-8-6

Mr. O'Connell: The next one is Susan A. Karches 2009 Revocable Trust, 5 Egypt Close, Pam do you want to read the notice.

Ms. Bennett: Sure. Application of The Susan A. Karches 2009 Revocable Trust, SCTM#301-4-8-6, for an Area Variance from Chapter 278, Zoning, to legalize a walkway. A 22.5-foot variance is requested from Section 278-3.A.(5)(a) to legalize a walkway constructed 22.5 feet from the front yard lot line where the required setback is 45 feet, and any other relief necessary. The subject property is 21,494 square feet in area and is located at 5 Egypt Close in Residence Districts R-40 and R-80. This project is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Okay, thank you. Who is here for the applicant?

Mr. Tarbet: Jon Tarbet for the applicant as well as Michael Derrig from Landscape Details. Actually, I might try to share my screen after Alice did such a nice job sharing her screen. This should work. I think you can see that, what we have before the Board this morning is a mistake. The Village Code exempts postman's walks which is the walkway from your house to the street or the walkway from your house to your driveway...[inaudible]...coverage or front yard setbacks. The problem you run into is that postman's walks are defined as being less than 48 inches wide and on some properties, unless you know that technical distinction,

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you want to design a walkway that is in keeping with the front porch or the patio so what we have here is a, at least in my opinion, and in Landscape Details and the owner's opinion is a walkway from the house to the driveway which is very modest and in keeping with the nice walkway, keeping with the character of the house, character of the neighborhood, there is actually a lot of other, if you drive around Egypt Close, there is a lot of other walkways which are similarly wide and if you notice the main part of the walkway lines up with the width of the porch so it is all meant to be aesthetically very pleasing. The property itself is well under coverage. The house as you can tell is a modest home, the only issue was that it is wider than 48 inches wide so technically it needs to meet setbacks. I think the intent, I am happy, the best I can come up with is that the intent of the Code in limiting walkways to 48 inches wide was to prevent someone from building a giant front deck in their front yard and calling it a walkway. That is not the case here, as you can tell, it is clearly a walkway, and we are hoping the Board will grant the variance to allow it to remain as is.

Mr. O'Connell: All right. Anybody on the line from the public that would like to speak?

Mr. Gambino: There no callers on the line currently.

Mr. O'Connell: Okay. Anybody have any questions or comments? Anybody from the Board?

Mr. Rose: I just have a question in terms of, Billy, or Vincent, you are new like me so when did this change in terms of the rule regarding the postman's walk go into effect?

Mr. Tarbet: Maybe Billy knows.

Mr. O'Connell: I think we started excluding them maybe in '15 or '16 or '14?

Mr. Rose: So it is, I understand that it is...

Mr. Hajek: Yes, it has been about seven years.

Mr. Rose: Let me just make the comment that I have no problem with this application, I think it is perfectly appropriate and nice. Going forward, just for those members of the land use of the Board, for people to, it is one thing for it to have accidentally been done in a nonconforming way in the context of rules change

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or an interpretation change in recent years, but going forward, people should not assume that that is a cart blanche to make these kinds of mistakes going forward in new actions.

Mr. Tarbet: Understood.

Mr. O'Connell: So I make a motion to close the hearing.

Mr. Rose: So moved.

Mr. Baris: Second.

Mr. O'Connell: All in favor?

Mr. Humphrey: Aye.

Mr. O'Connell: All right, I think Vincent you can write the determination for this, approving this for setbacks but it is not excluded from the coverage calculation. Does that work?

Mr. Messina: Understood, thank you.

ORIGINAL HEARING

Botanical Garden, LLC – 5 Hook Pond Lane - SCTM#301-8-14-1

Mr. O'Connell: Okay, the next one we have Botanical Garden, LLC, 5 Hook Pond Lane, Pam, can you read the notice, please.

Ms. Bennett: Sure. Application of Botanical Garden, LLC, SCTM#301-8-14-1, for Variances from Chapter 278, Zoning and Chapter 163, Freshwater Wetlands, to construct a BBQ, multiple patios, stepping stones, retaining walls and a swimming pool. A wetlands permit and variances are requested in accordance with Sections 163-2 and 163-3 and Section 278-3.A.(8) which requires structures be set back 150 feet from wetlands. Variances of 62.3 feet, 52 feet, 62 feet, 18.4 feet and 10.1 feet are required to construct a BBQ 87.7 feet from wetlands, patios, the nearest being 98 feet from wetlands, stepping stones, the nearest being 88 feet from wetlands, retaining walls 131.6 feet from wetlands and a swimming pool 139.9 feet from wetlands, and any other relief necessary. The subject property is 56,153 square feet in area and is located at 5 Hook Pond Lane in Residence District R-160. This project may require a wetlands permit from the New York State Department of

16449

Environmental Conservation and is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Who is here for the applicant?

Mr. Tarbet: Jon Tarbet for the applicant. Just a quick note, we did obtain a DEC permit for the application. This property is on Hook Pond Lane which would be just past, heading up to Main Beach on your left, just the top of Town Pond, there is a wetland across Hook Pond Lane, there is a wetland in the front yard. The applicant is looking to install a pool, it will meet the two-foot separation of groundwater and it is tucked in the far rear corner as far from the wetlands as possible. The one wetland would be across the street and the other wetland would be on the other side of the home. We did not ask for any side yard setbacks to not infringe on the neighbors but we do need an 11-foot variance for the pool. There are a number of variances because each of the structures, like the patio is kind of separate but in essence the significant variance would be the wetland variance for a pool. The pool equipment itself is proposed to be outside jurisdiction. We are also going to propose, like we did a few weeks ago, to waterproof the pool so the pool itself will not leach at all into the groundwater and the pool equipment, in the event that somebody was going to backwash the pool, that would all be located outside of wetland jurisdiction.

Mr. O'Connell: That is the same technology where it kind of seals the pool so that it is like one of the rooftop pools put in a building so that there is no leaching or leakage that normally happens when you have a gunite pool, is that correct?

Mr. Tarbet: So, I did look into it a little bit and I believe there are probably a number of ways to do this. What we are proposing here is there is a way to do it between the cement and the gunite, it is sort of another layer, and it is a waterproofing, it is probably a paint, but there is a way to add it, but there is a way to add it, it is another stage to the process of building a pool and that stage is what prevents it from leaching into the groundwater.

Mr. O'Connell: Anybody on the line from the public?

Mr. Gambino: There are no callers on the line.

Mr. O'Connell: Is there anybody else on the line that wants to comment on this application? I see some other attorneys on here. Who from the Board has questions for the applicant? Any questions for the applicant?

Mr. Rose: I just have a question, I do not believe that the, under the regulations that the work involved here triggers any change or action regarding the septic system of this property but I guess it is a question since this is an environmentally sensitive location in terms of its runoff into the wetland areas, what is the status of the septic system and going forward is there any anticipation of doing any work regarding the impact of upgrading the septic system given its impact on the pond.

Mr. Tarbet: So correct, as you know, a few years ago the Village started to promote low nitrogen septic systems and there are a number of triggers in the Village Code that require a homeowner to install those septic systems. This particular septic system is a nonconforming, it is not a low nitrogen septic system although it is a performing septic system, it is working perfectly fine. I think if the septic system had been located anywhere in the rear yard, then it would have made perfect sense because we would have all the heavy machinery back there and it would be a very good time to replace the septic system. In this case, since the septic system, and the reason why I know the answer to your question was because we did look at this as something we could offer up, however, it was determined that with the septic system performing and being in the front yard, at this time, we did not propose to upgrade the septic system just because the wetland is so close to it that you would be essentially digging up the wetland so we did not necessarily see the benefit or the nexus between proposing the pool on the other side of the home to replace it at this time.

Mr. Rose: Understood. I just wanted to make sure we had the question on the record for as we see future applications where there is a perhaps more closer convergence of the work and the system, there might be something that we would at least be able to discuss.

Mr. Tarbet: I appreciate that. We definitely, had it been in the rear yard, 100 percent we were planning on doing it, it just did not make sense at this time.

Mr. O'Connell: And I would also like to note for the record we received, they were sent out by Pam Bennett, a letter from Juan M. O'Campo who lives at 12 Hook Pond who is not in favor of this application on 5 Hook Pond Lane nor the one at 11 and 15, and an additional letter from Kenneth Lipper of 5 Hook Pond who is not in favor of this application at 5 or the 11 and 15 one also. So I do note that both of those homeowners have pools.

Mr. Tarbet: It is a very involved neighborhood and we have seen them oppose applications almost uniformly in that area...[inaudible]...neighbors.

16451

Mr. O'Connell: Do I need to read these letters?

Mr. Messina: No, you do not, they are in the file, you made reference to them so the public knows that they are there, you are fine, Mr. Chairman.

Mr. O'Connell: Okay, thank you. Does anybody else have any questions or comments? All right, do I have a motion to close the Public Hearing?

Mr. Baris: Motion to close.

Mr. O'Connell: Second?

Mr. Humphrey: Second.

Mr. O'Connell: All in favor?

Mr. Rose: Aye.

Mr. Baris: Aye.

Mr. O'Connell: I think this one is pretty straight forward. Joe, do you want to send this to Work Session? I think we all kind of know where we are going with this.

Mr. Rose: I think it is a good practice to have determinations for when we vote on them so we are seeing what we are voting on.

Mr. O'Connell: Okay.

Mr. Rose: In the past as I understand it, we voted when we had the determinations which was a month later now it is only going to be a couple of weeks later.

Mr. Messina: Well not really. We will talk about it in the future, you and I Mr. Rose privately, but you may want to reconsider that on certain things but we will get to that at another time.

Mr. Rose: Just trying to establish, make sure I understand our practice.

Mr. Messina: Everyone has to, right, know the rules and we all follow them, that is it, no question.

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Mr. Tarbet: Thank you guys, thank you Board.

ORIGINAL HEARING
Hook Pond Lane LLC – 11 Hook Pond Lane - SCTM#301-8-14-2

Mr. O’Connell: So next we have Hook Pond Lane LLC, 11 Hook Pond Lane and 15 Hook Pond Lane. Pam, can you read the notice.

Ms. Bennett: Sure. Application of Hook Pond Lane LLC, SCTM#301-8-14-2, for Variances from Chapter 278, Zoning, to permit the transfer of 12,220 square feet of land area to property identified as 15 Hook Pond Lane. A 122,612 square foot variance is requested from Section 278-3.A.(1) to reduce the size of the property from 49,608 square feet to 37,388 square feet where the minimum required lot area is 160,000 square feet, and any other relief necessary. The land area is being transferred to property identified as 15 Hook Pond Lane. This project requires subdivision approval of the Village Planning Board. The subject property is located at 11 Hook Pond Lane and is in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Mr. O’Connell: Thank you Pam. Who is here for the applicant?

Ms. Bistran: Chairman O’Connell I am, Britton Bistran.

Mr. O’Connell: Hi Britton, how are you.

Ms. Bennett: I have to swear Britton in.

Mr. O’Connell: Yes.

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

Ms. Bistran: Britton Bistran, 21 Napeague Harbor Road, Amagansett, NY 11930.

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

Ms. Bistran: I do.

Ms. Bennett: Thank you.

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Ms. Bistran: Good morning Chairman O'Connell, Members of the Board, as you know I am Britton Bistran representing Hook Pond Lane LLC and 15 Hook Pond Lane LLC. The proposed lot line modification and variance request represents the transfer of 12,220 square feet from 11 Hook Pond to 15. Both lots are significantly undersized in the zoning district, however, this adjustment will make the two lots more similar in size. It is the intent in zoning to reduce nonconformities over time and although this does not make either lot the required 160,000 square feet by the zoning district, it does make 15 less nonconforming and more appropriately sized to its neighbor. In addition, the application would reduce an existing dimensional nonconformity on 15 Hook and both parcels would then meet the lot width requirement. I will note that I saw the letters in the file and I believe the neighbor, I did not see any content in those letters relating to this specific, they were talking about environmental issues and a pool so I would note that although the Chairman did note that there were letters in the file for 15 and 11 Hook, the content of those letters had absolutely nothing to do with this proposal.

Mr. Messina: It did ask, they did say that the two should be heard as one application rather than two, I think you and I both know we cannot do that under the law but that implicated this application to the extent it implicates anything.

Ms. Bistran: Right, so they are totally separate ownership.

Mr. Messina: I understood and I agree with you, I am just saying that is the only, I think the place where it crosses over, I think, I am pretty much agreeing with you.

Ms. Bistran: Okay, thank you. Otherwise, if the Board has any questions that you would like me to address, I would be happy to do so.

Mr. O'Connell: Is there anyone from the public that would like to comment on this?

Mr. Gambino: There are no callers on the line right now.

Mr. O'Connell: Okay. I do have a question, Britton. If the lot lines are modified, you are still meeting setbacks for the lot that is being made smaller, correct? Is that how I am reading this?

Ms. Bistran: Correct. One of the lots is improved and that improvement, after the lot line modification, will continue to meet all dimensional zoning.

Mr. O'Connell: Any other Board Members have questions for the applicant?

Mr. Rose: I do.

Mr. O'Connell: Okay.

Mr. Rose: I am trying again to understand. The zoning here calls for, the lot dimensions called for under zoning are, I am sorry I do not have the numbers in front of me...

Mr. Messina: 160,000 square feet.

Mr. Rose: 160,000 square feet and we have two properties now that are both below that, nonconforming, preexisting nonconforming properties that need to be, one of which has a house on it and the purpose of this application is what, what is the basis for doing this?

Ms. Bistran: When the two lots are similarly sized, one would make the argument that that is more consistent with zoning and that you could make two similarly sized developments.

Mr. Rose: I do not find the fact that it is more consistent, they both remain, neither becomes conforming under the action, they both remain preexisting nonconforming. The rationale appeared to me in reviewing the application to be that by moving some additional area to the property to the south, is it to the south or to the east, that that would allow for a larger home to be built on the newly expanded lot, is that the rationale for why it is being done?

Ms. Bistran: I do not know if that is the rationale, the result, but it also proportionally reduces the size of the house you could expand on the existing lot so it just depends which way you are looking at it. And although they are both nonconforming, the application does reduce one nonconformity so you are improving the existing condition.

Mr. Messina: But on the flip size...

Ms. Bistran: No, I am sorry, I am speaking of the lot width at the street, they both become conforming, not the lot area. There are two nonconformities existing and one of them goes away as a result of this.

16455

Mr. Rose: But the reason to be doing this is to expand the capacity to develop what is now vacant lot.

Ms. Bistran: Yes, I mean if you want to, Billy very succinctly pointed out in his memo you can build a house that is 288 square feet larger, that is the net result.

Mr. Messina: Sure, so what it comes down to is whether or not you prefer as a Board to see one big use as opposed to two smaller uses on nonconforming lots, that is really your choice, right?

Mr. Rose: Or one bigger and one smaller.

Mr. Messina: That is what I mean.

Mr. Rose: There is a discussion to be had about what is going to happen.

Mr. Messina: Exactly correct, Mr. Rose.

Mr. Rose: Thank you. That is my question.

Mr. O'Connell: And we have in the past traded equalized lots where we are trading one nonconformity for another.

Mr. Rose: I think, there have certainly been cases where we have regularized some of the question whether weird shapes and the like but this one just requires some understanding and discussion.

Mr. O'Connell: Okay. Does anybody have any further questions of the applicant?

Mr. Humphrey: I think you have to wait and see what is proposed to be used on these lots before you can do much of anything.

Mr. O'Connell: I think that is outside of our purview.

Mr. Humphrey: Yes I know.

Mr. Messina: But I think Mr. Humphrey what you can do is assume that they are going to be used to the maximum permitted under the Zoning Code for the newly established lot. I think that is a rational direction for the Board to take and sustainable by any Court should they review it.

16456

Mr. Rose: I think Craig's point is a good point and we look forward to discussing that with you Counsel.

Ms. Bistran: I would just like to highlight for the Board's information, I know sometimes the maps get very busy that both building envelopes and allowable development on both lots as existing and proposed are contained within your Board's files so you can analyze that.

Mr. Rose: Thank you.

Mr. O'Connell: It is actually laid out very nicely, thank you.

Mr. Hajek: If I could just add two items real quickly for the Board. When the Planning Board was reviewing this application which they had, the Planning Board, I would just reiterate, had no real concerns with the lot line modification, to create two more normally sized properties and none of the lot lines that are proposed are abnormal or unusually shaped which is one consideration of the Planning Board but the improved lot is still capable of building a new septic system and meeting the wetland setbacks so that was something I was concerned about. And secondly the current vacant lot is actually eligible for alternative setback relief because it is nonconforming in lot width and a result of this is that it is going to have to comply with the regular setbacks, it will not be eligible for the relief provisions because it will conform to the lot width requirements.

Mr. Rose: A valuable point to have on the record regarding what we may see in the future. Thank you.

Mr. O'Connell: Billy, I remember when this came in front of the Planning Board a number of years ago and there was concern about if the lot line modification happened it would trigger a fire emergency access road, is that still an issue?

Mr. Hajek: No, so the Fire Marshal has weighed in, he provided the Planning Board with an opinion and no improvements to Hook Pond Lane are required.

Mr. O'Connell: Okay so we would not be changing the width of the lane. Okay, do I have a motion to close the hearing.

Mr. Rose: So moved.

Mr. Humphrey: Second.

16457

Mr. O'Connell: Craig, you seconded it. All in favor?

Mr. Baris: Aye.

Mr. O'Connell: We will send this to Work Session, Pam.

Ms. Bistran: Thank you.

Mr. O'Connell: Thanks Britton.

ORIGINAL HEARING

13 Sarah's Way, LLC – 13 Sarah's Way - SCTM#301-9-1-13.2

Mr. O'Connell: The next one we have is 13 Sarah's Way, LLC which is 13 Sarah's Way. Pam, if you could read the notice, please.

Ms. Bennett: Application of 13 Sarah's Way, LLC, SCTM#301-9-1-13.2, for Area Variances from Chapter 278, Zoning, to construct a tennis court. A 16.6-foot variance is requested from Section 278-3.A.(5)(a) to construct a tennis court 58.4 feet from the front yard lot line where the required setback is 75 feet. A 16.5-foot variance is requested from Section 278-3.A.(5)(c) to construct a tennis court 23.5 feet from the rear yard lot line where the required setback is 40 feet, and any other relief necessary. The subject property is 80,000 square feet in area and is located at 13 Sarah's Way in Residence District R-80 and the Main Street Historic District. This project is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Who is here for the applicant?

Ms. Cooley: Good afternoon again Board Members, Alice Cooley, Matthews, Kirst and Cooley, 241 Pantigo Road in East Hampton. I am joined today by client's architects William Rutledge, who is also here on the Zoom call with me, and Scott Sottile, who has called in, they are both from Ferguson Shamamian and I believe we also have on the line Justin Willard of Hollander Landscape Design. If you do not mind, I am going to ask William to share his screen while I speak. So this property on Sarah's Way is presently vacant. As you know we are requesting two variances in order to locate a proposed tennis court on the site in a north south orientation. As the Board is familiar, a tennis court with an east west orientation would make the tennis court unplayable for many hours of the day. Later on, William will present a sun study prepared by his office which demonstrates the sun passing over the court at different times of the day once I briefly present the

variance standards. No undesirable change will be produced in the character of the neighborhood nor will any detriment to nearby properties be created from either the front yard or a rear yard variance sought by the applicant. The applicant is seeking a front yard variance of 16 feet where the required setback is 75 feet. The applicant is also seeking a rear yard variance of 16 feet where the required setback is 40 feet. The tennis court's primary playing area meets the required setback on both sides and only the back court area is outside of the setback along with the retaining wall and fencing. It is a reduced sized court at 110 by 55 feet. The fence is proposed to be a soft meshed netting on cedar posts which eliminates the typical noise generated from a ball hitting a fence. The proposed tennis court will also be sunken with a retaining wall and the court surface will be composed of Decoturf. The tennis court will be heavily vegetated with two rows of privacy hedge along the edge of the court and two rows of hedge at the property lines so we anticipate no visual or noise impact. We also note that the front yard that the applicant is seeking relief from is a cul-de-sac at the end of Sarah's Way, and in that sense, it differs from a traditional front yard. If you look at the cul-de-sac area, you can see it is mostly flagged driveways that extend quite a bit. The benefit sought by the applicant cannot be achieved by another method that is feasible for the applicant to pursue. While the tennis court could be placed in a conforming location, the lot configuration is such that a traditional tennis court with a north south configuration which, as the Board know, is preferred due to the east west rising and setting of the sun is not possible without the requested variances. The applicant is an avid tennis player and as such his usability of the court would greatly decrease without the requested relief. The requested variances in the context of this particular property and the surrounding properties are not substantial given the sunken court. The substantial vegetation and the overall distance from surrounding residences, particularly from the court's playing area, the impact will be minimal. The proposed variances will have no adverse effects on the physical and environmental conditions in the neighborhood. I do note that the Board has granted similar variances in the past and the alleged difficulty is not entirely self-created. While the property does have room to construct a tennis court without the variance relief, it is just not in the preferred configuration. If you do not mind, maybe William could share his sun study?

Mr. Rutledge: Sure, so we have prepared some studies basically depicting both court orientations. So, this is the orientation that would be allowed on the property as of right which the east west orientation. Our sun studies that have been set up and geo-located to be on the property during the summer solstice and so bear in mind as you are watching the effect of the sun passing over the tennis court. This is actually kind of the best-case scenario because it is the longest day of the year so

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this is happening relatively early in the morning so we start out our studies at 6 a.m. but at other days of the year this would actually be happening later in the morning. So, as you can see, it would be very difficult to play tennis when you have the sun directly in your eyes as it is rising in the morning. So, this is the view at 6 a.m. and then this is the view at 7 a.m. and then this is the view at 8 a.m. and then similarly in the evening with this orientation, the view looking west as the sun is setting. This is the view at 6 p.m. and then the view at 7 p.m. and then the view at 8 p.m. So again, challenging with the sun direction. And then so we have also prepared studies that show the court in the north south orientation we are proposing. So, this is the view looking south, same time and place on the summer solstice at 6 a.m. and then this is the view looking south at 7 a.m., 8 a.m., and then similarly in the evening at 6 p.m., 7 p.m., and 8 p.m. So, as you can see the benefit to the client would be great with much improved in this court orientation. And I also might just show some images of the court that we prepared since it is like the 3D model showing the materials that are proposed, the soft meshed netting and with frame, the sunken court, and heavily vegetated around the perimeter. And actually, we also have a detail image of the netting which, here it is, so this is the kind of netting that is proposed. So, as you can see, there would not be a concern with it producing noise with the tennis ball.

Mr. O'Connell: All right, thank you. Anybody out in the public on the line?

Mr. Gambino: Yes, there are two callers on the line. Let me patch them through. Caller 646342 you are on the line.

Mr. O'Connell: Anybody there? Hello?

Mr. Gambino: Caller ending in 1573 you are also on the line.

Mr. Willard: I am with Hollander Design do you have any comments or questions from the Board?

Mr. O'Connell: You know I have a couple of comments. It has always been the Village's position and it remains that when you are building a new, you have a vacant piece of land and you are building a house to comply with all the regulations so that has always been our position and remains so. I also noticed that you impact three neighbors. Have you been in contact with those neighbors, any support from those neighbors or opposition from those neighbors?

Ms. Cooley: I think we impact two neighbors. There is the front yard setback and then to the rear it is two neighbors. We have not heard from one of the neighbors. The other neighbor asked us some questions about drainage control and we addressed them with her.

Mr. O'Connell: Okay, I thought you had three neighbors. And then the other thing I noticed on, and maybe the architect, the landscape architect will speak to this, you are about 140 feet under your max coverage and there is gravel everywhere which does not count as coverage as you know but in some odd places like between the pool house and the pool where you are typically in bare feet and you have gravel. I would like to hear from the landscape architect. One of my concerns is that all of a sudden these are going to be replaced with hardscapes necessitating another variance for coverage so would the landscape architect hop on please.

Mr. Willard: This is Justin again. We did have conversations early on with the clients about the type of materials and paving and we are very close with coverage and they were amenable to doing the gravel which allowed us to have a harder surface than just lawn for the furniture the areas outside of the pool house and the viewing terrace from the tennis court.

Mr. O'Connell: Any other Board Members have any questions, concerns?

Mr. Humphrey: No.

Mr. Rose: I have a question just picking up on your comment, Phil, about being able to comply as of right on a large, vacant site. If the, and I am not proposing this, I am just asking a question, if the configuration of the house, there is a lot of stuff being built on this site, if it were reconfigured would it not be possible, it looks like it might be possible to have the same orientation, north south or east, whatever the optimal tennis court configuration is, without having the same degree of variances being sought.

Ms. Cooley: Unfortunately, that is not the case.

Mr. Rose: Explain why that is not the case.

Ms. Cooley: Sure. It does not meet the setback in the north south configuration on either side of the property and we tried to equal out the request from the rear and from the front yard so the variance request is equal, they are both 16-foot requests.

16461

Obviously, the front yard setback request is greater than the side rear yard request but there is nowhere on this site to locate the tennis court in the north south configuration. It could be located where it is conforming and it is east west.

Mr. Rose: Or at a slight diagonal presumably.

Ms. Cooley: I do not know. William?

Mr. Rose: The options are not limited to exactly east west or exactly north south.

Mr. Rutledge: Yes, I do not think it could fit completely within the setbacks even if you were to have it at an angle. It will fit in the east west orientation within the setbacks if you were to reorient but I do not know that you could get a significant benefit from placing it at an angle.

Unknown: That is correct.

Mr. O'Connell: Any other questions from any of the Board Members? Do I have a motion to close the hearing?

Mr. Rose: So moved.

Mr. O'Connell: Second anybody?

Mr. Baris: Second.

Mr. O'Connell: All in favor? Aye.

Mr. Humphrey: Aye.

Mr. Rose: Aye.

Mr. O'Connell: Send it to Work Session. Thank you very much, Alice.

Ms. Cooley: Thank you.

ORIGINAL HEARING

Robin B. Shahani – 13 Pondview Lane - SCTM#301-9-1-9.5

16468

Mr. O'Connell: Next we have Robin B. Shahani, 13 Pondview Lane, Pam would you read the notice please.

Ms. Bennett: Sure. Application of Robin B. Shahani, SCTM#301-9-1-9.5, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence. A 15.9-foot variance is requested from Section 278-3.A.(4)(a) to legalize and complete the construction of second story additions to a residence located 18.1 feet from the side yard lot line where the required side yard setback is 34 feet, and any other relief necessary. The subject property is 40,089 square feet in area and is located at 13 Pondview Lane in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Mr. O'Connell: Thank you. Who is here for the applicant?

Mr. Osborne: Good afternoon, Tom Osborne, from Osborne and McGown PC, 135 Main Street, East Hampton, New York for the applicant. The owner also, Robin, is here. The project which unfortunately was already in progress was stopped back in November last year and the goal is to have the four-dormer situation above the garage to be habitable space. So, the question is whether an undesirable change is produced in the neighborhood because of this, the answer is no. It is habitable space and the variance is only needed for part of what is there.

Mr. Messina: Are there other precedents in the neighborhood that are similar in nature in terms of the scope, the magnitude of the variance that you are aware of, and if so, could you tell us which ones?

Mr. Osborne: There was a variance for this property granted back in 1996 which allowed the addition of the two-car garage which is underneath the addition. Now at that time the setback I believe was 25 feet and the variance was granted to 15 feet and that is there right now.

Mr. Messina: Right, but you agree that a second floor has other potential adverse impacts on neighbors, for example, right?

Mr. Osborne: Possibly for light, noise, that type of thing, sure.

Mr. Messina: Also privacy, right?

Mr. Osborne: Yes, privacy. I think the only neighbor who would be impacted would be, if you are looking at the property, the property to the right side, I asked

16463

Pam a couple of days ago if anybody had written in or responded to the application, I think at that time the answer was no, I do not know if anybody has since then.

Ms. Bennett: Still no.

Mr. Osborne: Okay. So what is the alternative here considering the fact that it has already been built. If the Board says no, a large portion, over half, would have to be removed. I do not think that Robin would keep the rest of it, I do not think it would make sense so probably the whole thing would have to go, and then the original roof would have to be put back on. It was a peaked roof. Is the variance requested substantial? Yes, it is. Will it have an impact, adverse impact on the physical or environment conditions in the neighborhood, I think no, other than visual or, as Vincent was talking about, maybe light or sound. Was the difficulty self-created? Yes, well unfortunately because of roof leaks and how this came about the question was do you do part of the roof to re-roof it and not the part over the garage or do you do the project all at once and for practical reasons, it was done all at once but without a building permit, however, nobody involved had any idea that a variance would have been needed. I think as a practical matter when you look at the property, given the location of the two-car garage, being about 15 feet off the side yard you would figure, okay, you can go above the garage, it is fine but that is wrong and that is well understood. I do not know, Robin, if you wanted to add anything here?

Mr. Shahani: Yes, do you need to swear me in?

Mr. Osborne: Swear him in.

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

Mr. Shahani: Robin Shahani, 13 Pondview Lane.

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

Mr. Shahani: I do.

Ms. Bennett: Thank you.

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Mr. Shahani: Thank you for the time today. I purchased the home about five or six years ago, the plan was always either to re-build or renovate pretty substantially and so that has been in the works, the planning for that, the architectural plans has always been in the works for quite some time. Last summer during COVID there was a need when some guests, so I knew that there were issues above the garage with the roof, that was probably in the worst condition and so we were trying to get, a little bit of leaking, I figured we solved that problem and we did the entire roof and then I had some guests visiting and it proceeded to rain in the house, in their closet, so we realized that the source of the water that was going all the way down to the basement, because it is a one-story house, was the roof. So we made the decision to completely re-shingle and put in, there are some copper crickets and so on to do that in the roof, the decision that was taken, literally as it was happening was because I had asked the contractor to bid on the overall plan for the house, he said do we want to just frame this out so they can, and not finish, the dormers which, by the way, are set in from the edge of the garage, they comply with the top ridgeline of the original roof but simply to frame it out so that we can have the roofers take care of that while they were, and so we made the decision to do it, I did not anticipate a variance being needed because it had been, a variance had been granted to turn the garage itself into habitable space. And so, we made the decision at the time to do it. We are planning to use the space quite frankly to work from, we moved out of the city, and we live here fulltime, it is my fiancé, myself, and our dog and so we plan to live here fulltime and raise a family and all that other stuff so I do not think, I did not think it would be a terrible intrusion, I should also say further that my neighbors at 15 Pondview, I did reach out via letter, I had not heard back and so I was following up this week with an email. We have had very please interactions in the past, they were here when the construction was happening and did not raise any concerns. In fact, they were apologizing for the noise that they created with the various things that they were doing and their master bedroom has been built above their garage with a dormer that looks directly into our house and our bedroom. This is actually a lot less intrusive than that because it just looks out to their backyard and to the back of Sarah's Way if you will, and I would argue the house across the street...[inaudible]...has added a second story and looks over this way. So, I appreciate your consideration, I apologize for getting started ahead of the permit, but our plan is actually much broader than that and we were seeking a permit for the entire thing all at once.

Mr. O'Connell: One quick question. You were planning on renovating the entire house in the future also, is that correct?

Mr. Shahani: Yes, and at this point we were trying to do it obviously over the winter but given where we are in a year, our plan is to push it off until after the season.

Mr. O'Connell: Okay and so you were aware that the variance granted was for the habitable little space in the garage, it did not talk anything about increasing the space or raising the roofline.

Mr. Shahani: Correct, yes. I mean again, it is a modification, a fraction of the roofline in order to accommodate being able to use that space upstairs.

Mr. O'Connell: It looks like four substantial dormers.

Mr. Shahani: I am sorry?

Mr. O'Connell: It was several substantial dormers when I looked at it.

Mr. Shahani: It is a dormer on each side of the garage, yes.

Mr. O'Connell: On all four sides?

Mr. Shahani: Yes, it adds very little square footage given the space, but I understand the notion of substantial as a percentage of the overall, we were just looking for space to be able to work and not be in one of the bedrooms, if you will.

Mr. O'Connell: Do any Board Members have any questions for either Tom or Robin?

Mr. Rose: There was a lot of materials about the history of the approvals on the site. Can you just walk me through, Tom, exactly what has been done? What was approved when and how we got to this situation that we are in?

Mr. Osborne: Sure. Billy Hajek's memorandum points out that on January 12, 1996 the Zoning Board granted relief to build the two-car garage which was underneath this dormer structure to be where it is now when the setback at that point was 25 feet which was, I think a substantial variance, but that was then. And then in May 1998 another variance was granted to be able to convert the two-car garage completely to habitable space. None of that was done, however, the variance is still alive and kicking as far as I can tell, that could be done with a

16466

building permit, no more Zoning Board approval necessary but again that has not been done at this point. And that is it.

Mr. Shahani: This was all under prior owners, of course.

Mr. Osborne: Right.

Mr. Rose: So, then the intent is to continue to convert the garage into habitable space, just talk about that, what is under way now that diverges from what was approved in 1998.

Mr. Shahani: Yes, I do not know what the original intent was other than to create additional living space. What I will say is, it is a two and one-half car garage effectively because it abuts the house, it is framed up against the house but there is no passthrough. Our plan was simply to create a passthrough so that it becomes a part of the house and convert just that half car portion of that space and then have a staircase to go upstairs rather than the pulldown stair for the attic that is there. So, our observation was simply that there was not going to be a lot of space in that half car space and so we wanted to try and make the upstairs usable and rather than have a pulldown that came in, we wanted to put in a staircase, the staircase necessitated changing the roofline a bit so that we could actually get up there and stand up as we went upstairs.

Mr. Rose: Did the original 1998 approval anticipate a two-story or a one-story use of that building which was granted a variance?

Mr. Osborne: It only referred to converting the then existing two-car garage to habitable space, nothing else was said.

Mr. Rose: So, the recent decision was to build a second story and create these dormers and the expansion to accommodate habitable space above the garage.

Mr. Shahani: It was to modify the attic that is there to make it habitable space.

Mr. Osborne: So, I think one of your questions might be the 1998 variance would that have allowed the whole garage space including up to the roof to be converted to habitable space, and I am not sure what the answer is, I was not there in '98. It could be that it was, I just do not know.

Mr. Rose: Further questions for us but thank you for the review.

16467

Mr. Osborne: Okay.

Mr. O'Connell: Anybody else have any questions?

Mr. Humphrey: Is the work stop still in effect? The stop work order?

Mr. Osborne: Yes.

Mr. Shahani: It is and we have complied.

Mr. Humphrey: So you could begin doing something now or do you have to go through any more procedures?

Mr. Shahani: We would be filing for a work permit with the support of a variance.

Mr. Osborne: A building permit needs to be obtained.

Mr. O'Connell: It depends what we rule, Craig.

Mr. Osborne: Correct.

Mr. Humphrey: You could also come up with a schedule of work to be done and when it is going to get done and all that kind of thing?

Mr. Shahani: We absolutely could.

Mr. O'Connell: All right, any other comments from the Board. Motion to close the Public Hearing?

Mr. Rose: So moved.

Mr. O'Connell: Second?

Mr. Humphrey: Second.

Mr. O'Connell: All in favor? Aye.

Mr. Baris: Aye.

Mr. Rose: Aye.

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Mr. O'Connell: Let us put this to Work Session. Thank you.

Mr. Osborne: Thanks.

Mr. Shahani: Thanks very much.

Mr. O'Connell: Anybody have any other business? We will close the meeting.

The meeting was adjourned at 12:52 p.m.

continued on next page

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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, May 14, 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 by clicking on the "Alerts" tab.

Application of Paul A. and Maureen M. Stefanick, SCTM#301-12-9-11, for Variances from Chapter 278, Zoning, to legalize and expand coverage with the construction of patios. A 795 square foot variance is requested from Section 278-3.A.(9)(a) to allow 17,573 square feet of coverage where the legally preexisting coverage is 16,778 square feet and the maximum permitted coverage by zoning is 14,513 square feet, and any other relief necessary. The subject property is 80,133 square feet in area and is located at 43 Ruxton Road in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application of Cathleen M c L a u g h l i n , SCTM#301-4-4-27.6, for Area Variances from Chapter 278, Zoning, to construct a swimming pool. Two (2) 8.5-foot variances are requested from Section 278-3.A.(5)(c) to construct a swimming pool 11.6 feet from a side yard lot line and 11.6 feet from a rear yard lot line where the required side and rear

yard setbacks are 20 feet, and any other relief necessary. The subject property is 19,639 square feet in area and is located at 121 Pantigo Road in Residence District R-20. This project is classified as a Type II Action in accordance with SEQR.

Application of The Susan A. Karches 2009 Revocable Trust, SCTM#301-4-8-6, for an Area Variance from Chapter 278, Zoning, to legalize a walkway. A 22.5-foot variance is requested from Section 278-3.A.(5)(a) to legalize a walkway constructed 22.5 feet from the front yard lot line where the required setback is 45 feet, and any other relief necessary. The subject property is 21,494 square feet in area and is located at 5 Egypt Close in Residence Districts R-40 and R-80. This project is classified as a Type II Action in accordance with SEQR.

Application of Botanical Garden, LLC, SCTM#301-8-14-1, for Variances from Chapter 278, Zoning and Chapter 163, Freshwater Wetlands, to construct a BBQ, multiple patios, stepping stones, retaining walls and a swimming pool. A wetlands permit and variances are requested in accordance with Sections 163-2 and 163-3 and Section 278-3.A.(8) which requires structures be set back 150 feet from wetlands. Variances of 62.3 feet, 52 feet, 62 feet, 18.4 feet and 10.1 feet are required to construct a BBQ 87.7 feet from wetlands, patios, the nearest being 98 feet from wetlands, stepping stones, the nearest being 88 feet from wetlands, retaining walls 131.6 feet from wetlands and a swimming pool 139.9 feet from wetlands, and any other relief necessary. The subject property is 56,153 square feet in

area and is located at 5 Hook Pond Lane in Residence District R-160. This project may require a wetlands permit from the New York State Department of Environmental Conservation and is classified as a Type II Action in accordance with SEQR.

Application of Hook Pond Lane LLC, SCTM#301-8-14-2, for Variances from Chapter 278, Zoning, to permit the transfer of 12,220 square feet of land area to property identified as 15 Hook Pond Lane. A 122,612 square foot variance is requested from Section 278-3.A.(1) to reduce the size of the property from 49,608 square feet to 37,388 square feet where the minimum required lot area is 160,000 square feet, and any other relief necessary. The land area is being transferred to property identified as 15 Hook Pond Lane. This project requires subdivision approval of the Village Planning Board. The subject property is located at 11 Hook Pond Lane and is in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application of 13 Sarah's Way, LLC, SCTM#301-9-1-13.2, for Area Variances from Chapter 278, Zoning, to construct a tennis court. A 16.6-foot variance is requested from Section 278-3.A.(5)(a) to construct a tennis court 58.4 feet from the front yard lot line where the required setback is 75 feet. A 16.5-foot variance is requested from Section 278-3.A.(5)(c) to construct a tennis court 23.5 feet from the rear yard lot line where the required setback is 40 feet, and any other relief necessary. The subject property is 80,000 square feet in area and is located at 13 Sarah's Way in Residence District

R-80 and the Main Street Historic District. This project is classified as a Type II Action in accordance with SEQR.

Application of Robin B. Shahani, SCTM#301-9-1-9.5, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence. A 15.9-foot variance is requested from Section 278-3.A.(4)(a) to legalize and complete the construction of second story additions to a residence located 18.1 feet from the side yard lot line where the required side yard setback is 34 feet, and any other relief necessary. The subject property is 40,089 square feet in area and is located at 13 Pondview Lane in Residence District R-80. 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: April 23, 2021

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

42-2

FILED
VILLAGE OF EAST HAMPTON, NY

DATE: May 28, 2021

TIME: 1:15 pm

Pamela J. Bennett

16470