

Zoning Board of Appeals
July 10, 2020
11:00 a.m.
via Video-Conferencing and
Published by Local TV, Inc.

Those present were:

Lysbeth A. Marigold, Chair
Philip O'Connell, Vice Chair
Lawrence A. Hillel, Member
Craig R. Humphrey, Member
Christopher A. Minardi, Alternate Member
Elizabeth Baldwin, Village Attorney
Billy Hajek, Village Planner
Alexandra Skellet, Applicant
Wes Robinson, Agent on behalf of the Applicant
Trevor Darrell, Attorney on behalf of Booke Georgica LLC and The John
and Mary Clarke Family Limited Partnership
Alexandra Ourusoff, Neighbor of Booke Georgica LLC
Mary Clarke, Applicant
Leonard I. Ackerman, Attorney on behalf of 23 Hedges Lane LLC and
128 LPL LLC
Mark Ferguson, Architect on behalf of 23 Hedges Lane LLC and 128 LPL LLC
Tom McManus, Architect on behalf of 23 Hedges Lane LLC and 128 LPL LLC
Jody Gambino, LTV Moderator
Pamela J. Bennett, Deputy Clerk

Minutes

Ms. Marigold: Good morning, welcome to the zoom meeting of the Zoning Board.
We have the minutes of June 12, 2020. Do I hear a motion to approve?

Mr. Hillel: So moved.

Mr. Humphrey: Second.

Ms. Marigold: All in favor?

Mr. Humphrey: Aye.

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Mr. Hillel: Aye.

Mr. O'Connell: Aye.

DETERMINATION
7 West End Road, LLC – 7 West End Road – SCTM #301-15-4-7

Ms. Marigold: Next we have one determination which is 7 West End Road, LLC, at 7 West End Road, it is an application to reconstruct a staircase, import fill, regrade and revegetate the landward side of a dune and it is hereby granted.

Ms. Bennett: Ms. Marigold?

Ms. Marigold: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Hillel?

Mr. Hillel: Yes.

Ms. Bennett: Is Chris on yet? No?

Ms. Marigold: Anybody who wants more information, the complete application is at Village Hall. Now we have...

Mr. Humphrey: Lys, my vote on that is yes.

Ms. Marigold: Okay, did we not poll you?

Mr. Humphrey: No.

Ms. Bennett: No, no because you were not at the last meeting.

Mr. Humphrey: Okay, all right.

ADJOURNMENTS

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

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

James D. Danella – 49 La Forest Lane – SCTM #301-12-6-7

Eric and Lori Blatstein – 211 Lily Pond Lane – SCTM #301-15-4-12

Justin G. and Elizabeth P. Sautter – 3 Georgica Road –
SCTM #301-8-12-5.10

Ms. Marigold: Now I am going to group together the requests for adjournments until August 14, 2020 where we might be meeting in person. There are five requests c/o The Maidstone, premises of Lexington Lounge LLC, 207 Main Street, Donald R. Mullen Jr. at 67 Cross Highway, James D. Danella at 49 La Forest Lane, Eric and Lori Blatstein at 211 Lily Pond Lane, Justin G. and Elizabeth P. Sautter, 3 Georgica Road. Do I motion to accept the whole group?

Mr. Hillel: Motion.

Ms. Marigold: Second?

Mr. Humphrey: Second.

Ms. Marigold: All in favor?

Mr. Hillel: Aye.

Mr. Humphrey: Aye.

Mr. O'Connell: Aye.

ORIGINAL HEARING

Alexandra Kate Skellet – 33 Church Street – SCTM #301-2-6-26

Ms. Marigold: Okay now we have the new hearings session. The first one is the application of Alexandra Kate Skellet at 33 Church Street. Ms. Bennett will you please read.

Ms. Bennett: Application of Alexandra Kate Skellet, SCTM#301-2-6-26, for Area Variances from Chapter 278, Zoning, to construct a patio, chimney and heat pump. A 96 square foot variance is requested from Section 278-3.A.(9) to permit 1,596

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square feet of coverage where 1,500 square feet is the maximum permitted. A 10.8 foot variance is requested from Section 278-3.A.(3)(a) to construct a chimney located 14.2 feet from the front yard lot line where the required front yard setback is 25 feet. Variances of 8 feet and 7 feet are requested from Section 278-3.A.(5)(b) to construct a patio and heat pump 2 feet and 3 feet from the side yard lot line where the required side yard setbacks are 10 feet, and any other relief necessary. The subject property is 5,000 square feet in area and is located at 33 Church Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Ms. Marigold: Is the applicant present?

Ms. Skellet: Yes, I am here. I am Alexandra Skellet.

Ms. Marigold: Okay, would you like to talk about your application?

Ms. Skellet: For sure. We are just trying to, when I bought this house, it had a deck off the back and all we are trying to do is pave that deck. We want a heat pump in our garage so we can work throughout the winter.

Mr. Robinson: So basically, so I can work inside the woodshop.

Ms. Skellet: Yes, he likes to work.

Mr. Robinson: I will help you out. The patio itself will be smaller than the original wood deck that was there by about 75 square feet. Initially that wood deck went up against the side of our fence line right up to the property line, we had to remove that in order to fix the foundation. Now we do not want to put that back because it just does not fit going right up against the side of the property line. So, this is just right outside the backdoor, it is 10 by 14, it will be enough space for a table and a small barbeque and that is about it. The, we were not going to do any built-ins there, we decided against that in the long run, and the chimney itself is mostly on the outside, it is a kit system so it will be, I believe, the architect drew it up a little bit wider unfortunately elevation 27 inches or so, it is not protruding out the front. The key point there is the house is lopsided if you guys noticed when you came to look at the house that it is not that the centerline of the house is about four feet off meaning it is to the left and that is due to a really bad renovation they did in 1973 from the 1948 house and that is really mostly what we did in the renovation was fixing all those mistakes so we...[inaudible]...the house and did that and left a lot of room for bracing and everything to put that chimney in but it is

just going to be easier to attach it to the outside. And what we hope to do is now the front of the house will look a little bit more natural as opposed to just kind of looking like windows on one side and lopsided on the other. And through the renovation we initially did, we actually took away square footage in the house which I think is somewhat unusual. There was a closet in the back that now acts as our doorway and we removed that and it is a nice little porch and it will lead onto the deck that we are asking for.

Ms. Marigold: So, the heat pump, so you are going to be using it as a workshop and not a garage?

Mr. Robinson: Well we, both, all the stuff, we have stuff coming next week, everything will be able to be pushed up against the walls, it is on casters so it will be a table saw and casters, there is a ban saw, there is a miter saw, all that stuff will fit and a car can get in by about four or five inches on either side. We have tested it out a couple of times but like today is a day that we will put the car in the garage but unfortunately, we put an apron on the front so we cannot pull the car in the garage today. Thank you, Pam, you have been really good about helping us on that. It will be partial workshop, partial garage and then partial place for Alexandra to work out in occasionally.

Mr. Hillel: How much noise will your equipment make as far as affecting the neighbor?

Mr. Robinson: Well it is a good question. I think that anything because the way it is insulated and how tight I made the garage, when I shut the door, if I run one of the, like the track saw I have now when I am running in there, when I shut the door you cannot really hear it outside the garage, you can hear probably, it is like if the stereo is turned up pretty loud but it is not going to protrude outside as long as I keep the door shut so that is one of the reasons we need some better circulation in there because otherwise I have to pull the equipment out and put it on the driveway and that makes it really difficult. So, I think this is the best way to accommodate that specific problem.

Mr. Hillel: Now but in the summer, again it is nothing to do with putting the heat pump there, you probably leave the doors open to get circulation since you do not have a/c, correct?

Mr. Robinson: Well the heat pump will provide that, it actually is both.

Mr. Hillel: Oh, it does both.

Mr. Robinson: It is an unusual system, these are new, and I used to have this exact system in my old apartment in Sag Harbor and it was only air conditioning but this one is more designed for heat. We had the choice of doing, we could put baseboard heating in and do a through window air conditioner but the cost of that is almost what it costs to put one of these systems in and secondly, that would cost us about 38 to 40 bucks a month to run versus this one is going to cost about seven dollars a month to run so it takes three or four years to make it up in value and it is super quiet and that is kind of what I wanted too.

Mr. Hillel: Okay, thank you.

Ms. Marigold: Phil, do you have something?

Mr. O'Connell: I have some comments.

Ms. Marigold: Okay.

Mr. O'Connell: So the chimney in the drawing looked rather large that was submitted there are other options showing it can go inside the house and go through the roofline, you can do a wood stove up through the roofline, we do exempt chimneys from the side yard setbacks but the maximum size for that is two feet by four feet so I would be okay with the chimney if the maximum protruding was two feet by four feet. The heat pump, it is a split that also acts as air conditioning, does kick off some noise so that would be also in the summertime when your neighbors are outside. I think that can go in a more conforming place on the inside yard of the garage, it is a hanging wall unit. Currently you are requesting relief of about 70 percent. Apparently the unit you showed me yesterday how small the unit was, only about 16 inches, so to be fair to the neighbors I think it should be hung on the inside wall, facing into your yard and then the patio you are requesting, I understand that there was a wood deck there before but you are going about two feet from the side yard line so that is an 80 percent relief you are requesting. Many of the lots are very small in the Village, you could see when you bought it it was a tiny lot and by granting these other two variances for the patio and the heat pump, I think we could have a long term adverse impact on the Village and where people are placing decks and other equipment so those are my comments.

Mr. Humphrey: Is not the deck in a corner of the house so that you are basically filling in part of the corner of the house for the deck?

Mr. Robinson: The house is L shaped if you look at it...

Mr. Humphrey: That is what I mean, in the L.

Mr. Robinson: Yes, that is where that goes.

Ms. Skellet: And that is where the deck was before.

Mr. Robinson: And it is acting as a patio now, we just have gravel down.

Ms. Marigold: Chris, do you have something? Pam, is he sitting on this?

Ms. Bennett: Is he in attendance? I do not see him.

Ms. Marigold: Yes.

Mr. Humphrey: He is here.

Ms. Bennett: Okay.

Mr. Humphrey: Chris?

Mr. Hillel: I saw him before.

Ms. Marigold: He is here.

Ms. Baldwin: I see him, I just cannot hear him.

Mr. Hillel: Maybe he is on silent.

Mr. Humphrey: Are you talking about Chris or me?

Mr. Hillel: Chris.

Ms. Bennett: Chris.

Mr. Humphrey: Okay.

Mr. Hillel: In fact, I do not see him now, there he is.

Ms. Marigold: Applicants, what do you think about moving the heat pump to the other side?

Mr. Robinson: I can move it to the other side but it is still in a setback so I think also if you look where that is located, three feet from the other side of my fence I have the new garage of Pizzo, behind me I have a pool, and then I have on the other side of that I have pool equipment so that corner is where everybody has their service area. Pizzo's air conditioner is right there, Steinberg behind me has his pool equipment right there four feet from my garage, and then the other people, I do not know their last name but I just know them from walking the dog all the time, they have their pool equipment that is sitting not too far from the back fence so that is the area where all that stuff is hence that is where we were originally going to put it.

Ms. Marigold: Well you do have I think it is .11 of an acre, it is small.

Mr. Robinson: I wish it was .11, it is .1. Comments about the chimney, it is a kit chimney, it is the smallest kit chimney we could find. The difficulty with moving it inwards more, we are going to try to keep, I want to keep it 24 inches protruding out but to move it inward more requires a lot of different framing on the front and that is what we are trying to avoid. If we have to go into the roofline quite a bit in order to do that and what we are trying to do is limit the amount of intrusion that goes into the roofline and the only way it can change is by about four and one-half to six inches so I am not really, I do not know if it is worth it. We can talk about it if that is a big kind of problem.

Mr. Hillel: Have you discussed this with your neighbors?

Mr. Robinson: So, my neighbor to the north of me, Richard, we have talked about it numerous times and there is no issue. John was willing to write a letter for it, everything we are asking for, and Steinberg has said she has no issue with what we are doing.

Ms. Marigold: And we did not hear from any neighbors who have any objections whatsoever. Craig?

Mr. Humphrey: No, I have gone over there and where the heat pump is from where I was standing at the front of the garage, I do not even think you are going to be able to see it, is that right?

Mr. Robinson: No because of the way the vegetation is, there is that large arborvitae that blocks that, right now you can see that there is left over tile that is sitting there that I have to get rid of and you cannot really see that from the street.

Mr. Humphrey: I do not have any problem with this and I know about the combined air conditioning and heat, I did not think about the idea that you could therefore keep the machinery that is in there, which is not big machinery, quiet and with the doors closed, I think it probably will be quiet.

Mr. Robinson: What I do now when I run the saw, I shut the door and then I open it up when I am done and then what that does otherwise it gets 85 degrees to 95 degrees in there when it is 80 degrees outside so that is why I am doing it now. It would just be a little bit easier.

Ms. Marigold: Phil, do you think these are insurmountable problems or are you willing to let them have the patio and the heat pump where they want it and the chimney?

Mr. Hillel: I think they put a lot of thought in it and I do not think it really, the only thing that might disturb the neighbors would be the heat pump and I think he talked about that and there is other equipment of the neighbors, I would be okay with it.

Mr. Humphrey: I am fine, I do not have any objections, they thought about this a lot.

Ms. Marigold: And Phil?

Mr. O'Connell: It seems that the will of the Board is to approve it the way it is.

Ms. Marigold: Okay so then can I have a motion to close the hearing.

Mr. Humphrey: So moved.

Ms. Marigold: Second?

Mr. Hillel: Second.

Ms. Marigold: All in favor? Aye.

Mr. Humphrey: Aye.

Mr. Hillel: Aye.

Mr. O'Connell: Aye.

ORIGINAL HEARING
Booke Georgica LLC – 82 Apaquogue Road – SCTM #301-12-5-8

Ms. Marigold: Okay, moving right along to Booke Georgica LLC at 82 Apaquogue Road, Ms. Bennett would you please read the application.

Ms. Bennett: Application of Booke Georgica LLC, SCTM#301-12-5-8, for Area Variances from Chapter 278, Zoning, to construct a swimming pool, pool house and patio. Variances of 24.5 feet, 20.4 feet and 11 feet are requested from Section 278-3.A.(5)(a) to construct a patio, swimming pool and pool house 30.5 feet, 34.6 feet and 44 feet from the front yard lot line where the required front yard setbacks are 55 feet. Variances of 22.6 feet and 5 feet are requested from Section 278-3.A.(5)(c) to construct a pool house and swimming pool 17.4 feet and 35 feet from the side yard lot line where the required side yard setbacks are 40 feet. A 4.3 foot variance is requested from Section 278-3.A.(5)(b) to construct a patio 15.7 feet from the side yard lot line where the required side yard setback is 10 feet, and any other relief necessary. The subject property is 46,595 square feet in area and is located at 82 Apaquogue Road in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Ms. Marigold: Is the applicant present? And I know we have some neighbors but let us start with the applicant.

Mr. Darrell: Hi, good morning everybody, Trevor Darrell, Fleming and Darrell PLLC, on behalf of the applicant. I am here on behalf of the owners of this property which is currently under renovation and the application before you is to relocate the pool that was on the property originally, as part of the original development it has been filled in so now it is earth but that pool when they purchased it was situate further into the rear of the property but it does was in a nonconforming location. The proposed pool is the same size but add a smaller

pool house and some additional patio and it is proposed to be moved toward, further toward the front of the property which then necessitates the variances because the property sits on the corner of La Forest and Apaquogue so we have double front yard setbacks of both the southerly side as well as the easterly side of the property are on road frontage. The proposed application was brought in contemplation of actually some of the concerns that I think that were raised by the neighbors and the neighbors I think some of them are here and they did submit letters are well and they will speak to their own concerns but we were trying not to infringe upon the neighbors bringing this application because the proposed location is nearest road frontage and across the road is the open field of the subdivision, I think one parcel has been built on and that house sits quite farther back off the road with driveway between Apaquogue Road and their new constructed house. If we moved these properties toward the rear, then we would be getting closer toward the neighbor to the rear when you look at their property, their aerial photograph, their house and pool and all their sitting area is nearest our northern boundary line. So the proposed application is pushing us far aware from them as we possibly could but still the shape of the property does necessitate the additional side yard variances because as you can see on the map, the property sort of is an odd shape and the westerly boundary line so sort of enters from the west to the east through the boundary. That property line also is the boundary with the neighbor who did submit a letter whose tennis court, and I think I sent you a copy of the aerial photograph yesterday that shows that existing tennis court so we are trying to separate ourselves from the neighbors who are already using their properties. The applicant does plan to also re-vegetate the property substantially so that it would not be seen from the road or from passersby and the noise making equipment, the pool, the pool pump, or any of those items as you saw on the landscape plan is actually to be proposed in a conforming location. So, we are not having any of the noise making materials to be in the area where the actual pool was proposed to be installed. The applicant is sympathetic to the concerns of the neighbors and the overall development of this neighborhood in general. The house, as the Board will note, is not seeking any variances. The renovation is being built and proposed on the existing structure so they have not expanded the GFA or the setbacks of the actual house. With that then if you were to try to propose the pool in that rear part of the property, the setbacks actually become more problematic than where we are proposing it in the front yard where there is much more space, lawn area to use and try to develop for the proposed pool location.

Mr. Hillel: But if you move it closer to the house and toward La Forest, you would be conforming. What is wrong with that?

Mr. Darrell: That is where the driveway now comes in, if you see on the survey...

Ms. Marigold: No, I think he is talking about just moving it into the building envelope. Is the pool square footage the same as the previous pool square footage because it looks longer to me.

Mr. Darrell: My math has it as the same, 40 by 20 both in the prior as well as the proposed current.

Ms. Marigold: But if you pull, it is just a third over the...

Mr. Darrell: Correct.

Ms. Marigold: So, if you just pushed it back toward the proposed deck, just slightly, you would not even need a variance.

Mr. Hillel: Right.

Ms. Marigold: I actually do not get why it was designed this way. It still would be near the road, it would be near the tennis courts but you did not need a variance and as you know, one of the criteria is whether it can be achieved by some method feasible to pursue.

Mr. Darrell: Yes, the concern from the applicant was, because that was originally discussed in that they do have small children, 10 and 12, and they wanted to have some lawn space for them that was between the house and the pool, so not near the roadway portion of the property so that green space was sort of part of the concept and idea and recognizing that the pool was only a third over and we are happy to try to scootch it forward some or shrink it down but we tried to keep it within an amount that the Board may consider it be not overly egregious. We want to have, keep some of that lawn available because whoever went to the property you will see on the westerly side of the property there is really any windows or anything so you cannot see out that side of the house. Most of the windows and doors and sliders are out toward the yard in the front which is where the proposed pool is.

Mr. Humphrey: What happens...

Ms. Marigold: It seems there is plenty of lawn or there will be when it is re-vegged.

Mr. O'Connell: I have a couple of comments. I note that the proposed structure is next to the tennis court and to the road but it appears from the plans you could be fully in a conforming location as well as the pool house and the deck. The difficulty is self-created. When they bought the house, they knew there were two front yard setbacks that they had to comply with which would affect the re-development which reflected the price they were able to obtain the house for. If you put the pool in a conforming location, they would still have plenty of lawn, just moving the lawn forward, if they are worried about the safety of the children, the inability to see them from the house, they can put up a safety fence around the house and I am not really sure what the relevance of it cannot be seen is, we have heard that a couple of times just because you cannot see it does not mean it is not a challenge. If that were the case, everybody would plant 30-foot hedges all around their property and do whatever they want.

Ms. Marigold: Whatever they want.

Mr. O'Connell: That is my take on this.

Mr. Humphrey: There is a letter from, a person, an owner at 18 La Forest that says just about what Phil says that he suggests that instead of kind of roughly north south in its location it goes east west, that takes the pool entirely out of the setbacks. I do not know if that does, has a deleterious effect on the lawn or not but it eliminates the variance problem.

Ms. Marigold: Okay...

Mr. Hajek: Chairwoman, Lys, can I just make one point of clarity.

Ms. Marigold: Yes.

Mr. Hajek: So that the pool that was removed was 20 by 40, I just dimensioned the survey and this swimming pool is 20 feet wide and I dimensioned it at 48 feet in length. So, the way I measure it, it is 48 by 20.

Ms. Marigold: Visually it does look a little longer.

Mr. Hajek: Because they added the hot tub and the steps to it, that probably accommodates the additional eight feet.

Ms. Marigold: Are the neighbors ready to weigh in on this?

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Ms. Ourusoff: Hi I am Alexandra Ourusoff, I am at 50 La Forest. Booke Georgica originally was a La Forest Lane address. The new driveway on Apaquogue is new, I do not know how, you know what the procedure it was to change it but we are objecting to the precedent of these variance requests just because there is plenty of room on the lot in the building envelope to put both the patio and the pool house and the pool.

Ms. Marigold: Okay.

Ms. Ourusoff: We are also surrounded by looming construction and I fear as a resident that if you grant this variance, the house across the street will ask for similar variances and it is a smaller and very oddly shaped lot. This 82 Apaquogue is actually a big square so it is not...[inaudible]. We were led to believe by the neighbors that the pool would go in front of the house so that they could see their children. There was no talk about pool houses, new decks or anything like that. And we are worried that the whole neighborhood is becoming very suburban and not the bucolic and quiet residential area it used to be.

Ms. Marigold: La Forest has definitely seen some changes.

Ms. Ourusoff: It sure has.

Ms. Marigold: Is there anyone else that wants to be heard on line or on hold?

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

Ms. Marigold: Thank you.

Ms. Ourusoff: Thank you for listening to our...

Ms. Marigold: We have your letter on file also.

Ms. Ourusoff: Thanks.

Mr. Darrell: I would ask if the Board would leave it open so I could speak to my clients and see if there some other design that may come up that may still need Board approval and then make a determination from there.

Ms. Marigold: Okay well because of that we will hold the meeting, the application open, do you want to adjourn it today?

Mr. Darrell: Yes please.

Ms. Bennett: August 14th.

Ms. Marigold: Do I have a motion?

Mr. Hillel: Motion.

Ms. Marigold: Second?

Mr. Humphrey: Second.

ORIGINAL HEARING
The John and Mary Clarke Family Limited Partnership –
52 Ocean Avenue – SCTM #301-8-13-20

Ms. Marigold: All right so we will move on to the John and Mary Clarke Family Limited Partnership at 52 Ocean Avenue. Ms. Bennett, the notice.

Ms. Bennett: Application of The John and Mary Clarke Family Limited Partnership, SCTM#301-8-13-20, for Area Variances from Chapter 278, Zoning, to legalize alterations of a purportedly legally preexisting, nonconforming second residence. Variances are requested from Sections 278-2.B.(1) and 278-7.C.(2)(d)[2] to legalize alterations to a purportedly legally preexisting, nonconforming second residential use where a parcel of land is limited to one single family residence. A 5.7 foot variance is required from Section 278-3.A.(4)(a) to legalize alterations to a purportedly legally preexisting and nonconforming second residence located 28.3 feet from the side yard lot line where the required setback is 34 feet, and any other relief necessary. The subject property is 76,685 square feet in area and is located at 52 Ocean Avenue in Residence District R-80 and is partly within the Ocean Avenue Historic District. This project is classified as a Type II Action in accordance with SEQR.

Ms. Marigold: Is the applicant present?

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Mr. Darrell: Yes, I was looking at Chris, I think he still cannot hear. Good morning, Trevor Darrell, Fleming and Darrell PLLC on behalf of the applicant. I believe Mrs. Clarke is also on the line.

Mrs. Clarke: Yes.

Mr. Darrell: So, the application as Ms. Bennett just read is to convert the previously labeled garage space to be habitable space. The parcel has a unique history and my client has had this property in her family for, since the 1950's. In 1968 her father applied for a building permit which was submitted as part of the Village file seeking under permit number 4877, that was actually approved by the Village, to partition the garage for a bedroom and bath. So that garage had a bedroom and bath installed per that permit back in 1968 and then the property was subsequently transferred from Mrs. Clarke's father to her in 1969. She and her husband since then have owned this property and in their ownership since then. The property has a history and Mrs. Clarke can speak to that history when she gets on the line but for my purposes, the work over the years since the property was purchased, at a certain point in the 1980's Mrs. Clarke's stepfather broke his hip and the family at that point then had a live in aide who assisted him in caregiving and she stayed in the barn. During that process, during that time, Mrs. Clarke's mother improved the living area and the bathroom and made it much nicer than it had been back in the 1968 permit. Then in the 1990's, Mrs. Clarke's brother-in-law who resided at 10 Crossways, which neighbors this parcel, had a stroke, he fell ill with a stroke, and his home health aide moved into the barn as well. At that point, during the 1990's the barn then was converted from having the remainder portion in the garage to be habitable space and was finished off with heat and a/c and a small kitchen. Those improvements have remained since the 90's and it was not until more recently when Mrs. Clarke realized that the foundation is falling apart from not needing much attention that when she spoke to the Building Department and actually was through Bill, prior to his passing, my partner, they started discussing with the Building Inspectors and determined that there was no C. of O. for the existing conditions even though we were able to locate those permits that permitted it to be constructed back in 1968. The conversions are for heat a/c that per my application while the plans from Bruce Siska the architect do show a proposed kitchen and I have gone over this with Mrs. Clarke, while she would love to have a second kitchen, I think the Board obviously if it were to grant this application, would be less inclined to have a second kitchen on the premises. Really this is not meant to be a second residence on a single property. It is meant to be a bedroom and bath for any guests, and a sitting area for them to have but any kitchen or eating would be done with the main house so there is no proposal for

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that second kitchen. Any second kitchen would be removed as part of this application. So, it is really for open habitable space that is heated with air conditioning and used for storage primarily when they are not here in the summer for the most part. The barn remains in its current location that it has been in since it was originally moved there back in the 1950's. Originally the electric and septic ran in off of 11 Crossways and when the Clarkes did their new construction of their residence in the late 90's, they then tied in the septic and the electric to the barn from their residence as opposed to coming in from the property that was not on the same tax map. The proposal is to leave it in its current location, lift it up and re-do its foundation and set it back down, no further expansion of the unit as Billy's memo had said, it is larger than the 250 square feet accessory structure built as a pool house except there is no pool on this property and there is no other pool house or accessory structures on the property. There is only the main residence. It is surrounded by tennis courts, pools and garages on all its neighboring borders. There are no residences that border it so on its north property, or southern boundary at 24 Crossways is a tennis court, its northerly line is a garage which is at 19 Pudding Hill address, and then on the westerly line, there are three lots, 46 Georgica, 30 Crossways and I did not grab the other one but those all have pools sort of their rear side. So it has no neighbors that will be impacted by the use of this existing bedroom and bath by having the additional sitting room which would be used by the same person who would be sleeping in that bedroom and we would like to be able to do it all with a valid C. of O. and satisfy the Building Inspectors that everything is to Code.

Ms. Marigold: So...

Mr. Minardi: Can you hear me?

Ms. Marigold: The C.O. from 2000 just overlooked it or missed it, is that what it was?

Mr. Darrell: I cannot figure out why it reads the way that it reads because that structure on the interior whether, I cannot speak to what the Inspectors did not go into that, because it looks like a barn from the outside but interior the work had been done so I cannot speak to why it was not listed on the C. of O.

Ms. Marigold: Right. I have never seen purportedly legally preexisting, nonconforming so I said to Billy tell me the history of this because it is quite unique.

Mr. Darrell: It is and I think that is important because there is no precedent setting here because I do not know any other parcel that has the situation like this where we have the record showing that it was requested and permitted but never a C.O. following the construction. Mrs. Clarke is willing to swear under oath that those people resided in that barn.

Mr. Hillel: What is to be the current use of this barn? Who is going to use it? Would you rent it out or is it only internally?

Mrs. Clarke: No, no, it is never been rented and never will be.

Mr. Hillel: Can we make that a prerequisite, put that into this approval that it cannot be rented to a third party?

Mrs. Clarke: Absolutely.

Ms. Marigold: Beth is saying no. Beth?

Mr. Darrell: If she said you cannot legally do it but it is absolutely our intention is it is for any family members who may come out to stay in it but it is not for re-sale, retail, rental.

Ms. Marigold: I would like it better if it was for an aide.

Mr. Darrell: Right well that is where it stems from, sure.

Ms. Marigold: I think Mr. Ackerman had put in a brief to the Village Board about that, have home health aides, places for them to stay. Phil, would you like to talk about it?

Mr. O'Connell: Yes, I would. This is a full-on guest cottage on the property, again, we have a situation where the difficulty was self-created by continual improvements without permits. I will get to the other one. It increases the degree of nonconformity in the intensity of use and it does set a precedent for other expansion, other kinds of garages chauffeur's quarters etc. As a matter of fact, there are two just like this on today and it does have the potential for an adverse impact on the neighborhood. You will get people wanting to convert their garage or increase their habitable space. The C.O. from 2000 I think is just wrong, I think the thing to do is to go with the 1960's building permit which gave you a bathroom and a bedroom and to allow them to lift it up and redo the foundation. I do not

have an issue with that but I think the additional conversion of garage space, even though it already occurred, it needs to be taken back to garage space and the kitchen removed. So, I am in favor of going with what is on the 1960's permit even though it was never closed out but not increasing past that point. That is my take on it.

Ms. Marigold: If you do not have the kitchen, you are basically where you were in '68, right?

Mr. Darrell: Basically except for having concrete and having studs on the walls. So, without the improvements that were made to the sitting area, it is hard to maintain the heat and a/c in the building. So, I think having the finished, you know it is basically nothing more than a storage area, it is not that large and it is not closed to weather basically instead of being an open garage with concrete floor.

Ms. Marigold: In the 2000 C.O. it mentions a two-car garage in the main house. Is that so?

Mr. Darrell: Yes, there is a garage, garage.

Ms. Marigold: At that point it was not a garage because you had another garage so I think that is key that it was overlooked that it had improvements and was no longer the garage. Craig?

Mr. Hillel: But there is no issue on square footage of the main house, is there?

Ms. Marigold: No. What I am saying is if they have a garage, the Building Inspector should have looked a little carefully inside to see what that was now in the year 2000. Craig, do you have some comment?

Mr. Humphrey: Yes, well first of all I wondered this never had a health department permit issued to it, is that an issue? Is that a problem?

Mr. Darrell: It is going to be according to the Building Department will require Health Department approval so ultimately, I am not sure, the system that was put in when they did the main house renovation, they tied into the septic, it is ultimately going to be determined by the Health Department if that is approved.

Mr. Humphrey: One of my problems to begin with was the setback problem as it is sitting partially in a side yard setback but this is a large property and I do not

have any notes about the size of it, I walked through the property and it is a big property so the correction on the setbacks for this smaller house is not a big deal, I do not see that and if you are going to get the Suffolk County Health Department approval which I think is very important, then my concerns are pretty much...

Ms. Marigold: Okay, is there anybody else? Mrs. Clarke, would you like to speak?

Mrs. Clarke: Well originally this barn was part of the house that is on Crossways, it belonged to Mrs. Ely way back in the 40's and 50's and she kept the house or sold the house but kept the land between her house and our house or my parent's house and then after her husband died, she sold it but the barn was always there and her gardener used to live there because actually the piece of property that that barn sits on where it goes back on the west side was her garden back there and this is where, back in those days your gardeners came from Riverhead for the summer, they did not drive back and forth every day and there was no local landscaping which naturally you can get done now. It did not have a kitchen, kitchen because nobody had that much power but it always had like a I guess they call them a hot plate and you know some plug-in appliance type things and those were all there when, my father's gardener lived there for a while because he came from Riverhead, and then my stepfather's caregiver being from Jamaica sort of an unfinished barn was not an issue and it really was not until my brother-in-law had his stroke that the caregivers wanted air conditioning which you cannot do with a barn that does not have sheetrock and insulation and so that is what we sort of did. And slowly over time it was like the kitchen just got a little more sophisticated. Like when you had better appliances available. I mean I think that my father-in-law's caregiver had one of those wonderful sort of ovens that was not just like a toaster oven but you could roast a chicken in it.

Ms. Marigold: Right.

Mrs. Clarke: And one of those mini fridges. I do not have a problem losing, because we do not really use it as a kitchen, we use the refrigerator at Thanksgiving and Christmas to store food but the stove is never used so I have no problem losing that.

Mr. O'Connell: Again, I think it is a dangerous precedent to legalize the additional space. Again, I am fine with the bedroom and the bathroom, you can insulate that bedroom and the bathroom so that it can be heated and air conditioned there are

plenty of houses where the house abuts a garage that is not heated so that is where I am.

Mr. Minardi: Can you guys hear me?

Ms. Marigold: Yes.

Mr. Minardi: Oh, great because my mic is on so this cottage seems to have been here since the 60's, am I correct, Trevor?

Mr. Darrell: Yes.

Mrs. Clarke: 50's, prior to the 60's.

Mr. Minardi: And have there been any complaints by any neighbors about this cottage?

Mr. Darrell: Not that I am aware of.

Mr. Minardi: My feeling is that if there have been no complaints on this since the 60's, you had a building permit, I have no problem with this if they are willing to not have a kitchen. I mean it has been there for a long time and there have been no complaints and it is a very large property.

Ms. Marigold: I do not want to disagree with my new Vice Chair but I think if you take in totality that they did get a building permit, that in those days this is how in that estate area almost everyone does have a small second residence and this was clearly a place that either the gardener stayed or healthcare workers stayed or a relative stayed or whatever and so if you removed the kitchen, I would be for it.

Mr. Minardi: I agree with you Lys, it has been there a long time.

Ms. Marigold: Larry?

Mr. Hillel: Yes, I feel if there is no kitchen and assuming they never rent it out because there could be a new owner, I have no problem.

Ms. Marigold: Well it is very small to rent out even though they are going sky high I think this is a very minimal, de minimis request.

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Mr. Hillel: Well it is amazing when you think what people rent out but I do not think it is their intention but maybe the new owners if that could be put in as a requirement then I am okay with it.

Mrs. Clarke: We actually have a buy/sell agreement with all of the property owners because it is all relatives.

Ms. Marigold: Well that is very nice. Craig?

Mr. Humphrey: I am fine with this. It is a lot of space, this is a tiny spot on there and it has been there for a long time, it has been there for at least 70 or 80 years so let us go with it.

Ms. Marigold: Okay well then, we can close this hearing. Do I have a motion?

Mr. Humphrey: So moved.

Ms. Marigold: Second?

Mr. Hillel: Second.

Mr. Minardi: Second.

Ms. Marigold: All in favor?

Mr. Humphrey: Aye.

Mr. Hillel: Aye.

ORIGINAL HEARING

23 Hedges Lane LLC – 23 Hedges Lane – SCTM #301-13-7-7
128 LPL LLC – 128 Lily Pond Lane – SCTM #301-13-7-8.1

Ms. Marigold: Then we will move right along, we are doing two of these applications together since they are the same owner but different LLC's. We have 23 Hedges Lane LLC at 23 Hedges Lane and 128 LPL LLC at 128 Lily Pond Lane. Ms. Bennett?

Ms. Bennett: Application of 23 Hedges Lane LLC, SCTM#301-13-7-7, for Area Variances from Chapter 278, Zoning, to make alterations to a preexisting,

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nonconforming accessory residence. A 47.5 foot variance is requested from Section 278-3.A.(4)(a) to make alterations to a building located 7.5 feet from the side yard lot line where the required setbacks are 55 feet. Variances are required from Sections 278-2.B.(1), 278-7.C.(2)(d)[2], and 278-3.A.(11)(c) to make alterations to a nonconforming use and to install a bathroom that will have no internal access to the residence, and any other relief necessary. Prior variances have been granted to permit the continued existence of an accessory residential building and accessory structures on a lot without a principal residence. The subject property is 217,740 square feet in area and is located at 23 Hedges Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR. Application of 128 LPL LLC, SCTM#301-13-7-8.1, for Area Variances from Chapter 278, Zoning, to make alterations to a principal building and to a preexisting, nonconforming second residential use. A nine inch variance is requested from Section 278-3.B.(2)(a) to make alterations to a residence and elevate it to a height of 37.7 feet where a prior variance granted a maximum height of 36.7 feet. The maximum height permitted by zoning is 35 feet. Variances are requested from Sections 278-2.B.(1) and 278-7.C.(2)(d)[2] to make alterations to a preexisting, nonconforming accessory apartment/cottage use when a residential property is permitted one residence. A 47.8 foot variance is requested from Section 278-3.A.(3)(a) to make alterations to a preexisting, nonconforming accessory apartment/cottage located 22.2 feet from the front yard lot line where the required setbacks are 70 feet, and any other relief necessary. The subject property is 145,147 square feet in area and is located at 128 Lily Pond Lane in Residence District R-160. This is a contributing property in the East Hampton Village Historic District listed on the National Register of Historic Places. The project is classified as a Type II Action in accordance with SEQR.

Ms. Marigold: Is the applicant present?

Mr. Ackerman: Hi, good morning, Lenny Ackerman for the applicants. First of all I want to thank Pam and the Chair for advancing these hearings from a telephone call into Zoom, it is wonderful because it gives us an opportunity to bring in the two architects who worked on this project Mark Ferguson and Tom McManus are available to answer any questions and if you wish, review any of the plans with you. We have a few plans that if questions arise, we will be able to put on the screen. This property at 23 is five acres which contributes to the 10 plus acre compound that are being restored by our clients in conjunction with 123, 17 Hedges, and 128 Lily Pond. It is an incredible project. I am sorry to have to burden you with another application but when this project first came before the Board, we were contract purchasers and our access was very limited it was only

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when we were able to begin the in depth due diligence and preliminary demolition that we discovered some of the issues that have lead to the application with respect to 123. But first with respect to 23, 23 is basically the caretaker's cottage. We have changed a bit of the interiors. The application of course is driven by the fact that it is partially within the side yard and the only thing that we are doing significantly despite removing one of the garage doors is we are adding a gardener's restroom which is accessible only from the outside because of the extensive gardens that you have seen from the architectural drawings and landscaping that we have provided. So with respect to our grounds, there is not a significant change of character in the neighborhood because there is no increased footprint or no additional GFA. There is no alternative because it is nonconforming. It is really a very small change in the design which is mostly cosmetic, there is no environmental impact, yes, it is self-created but this structure has been there at least 50 plus years. Now with respect to the main house and the guest house, essentially what we are looking to do is add an additional foot to the height of the house. We did something a little different in our memorandum, we actually inserted drawings in the memorandum we thought would be helpful to explain it but I have asked the architects on board if you have any questions with respect to the necessity for the increase in height, they certainly could explain it in a way, I think you have done a pretty good job doing that but we are here to answer any questions. With respect to the accessory dwelling, basically we are moving the pool equipment into the basement. You originally granted, the ZBA originally granted a variance for the pool equipment but we would prefer to put it underground, we think it would be better in the design of the gardens and I think diminish the noise impact. With respect to the design of the accessory that motivates the application, they have decided to move some windows and again this is more driven by design without expanding the footprint, there is no change here substantially in the character of the neighborhood. There is no objection by the neighbors, we have talked to Mr. Federbush and he has accepted it. I do not believe there is any objection letters. Are there, Pam?

Ms. Bennett: No.

Mr. Ackerman: Going through the criteria, obviously the benefit here, we are trying to, and the architects can explain this better than I can, we are just trying to build and renovate the house in 2020 that was built many, many years ago to bring it up to standards that are more livable, more lighting, more openness for the client. And of course, this was necessitated by the fact the discovery of water damage and the like that we have identified in our memorandum. I do not believe these variances are substantial, there is no adverse impact and of course they are self-

created by virtue of the fact that it is a historic house. So, I would ask if you have any questions of Mark or Tom, they will be very happy to answer.

Ms. Marigold: Why do we not start with the caretaker's cottage and focus on that.

Mr. Ackerman: On 23, Lys? The cottage at 23? The main house?

Ms. Marigold: No, the other one. Is that outside bathroom, is that added onto it or is that part of the third bay?

Mr. Ackerman: It is part of the footprint, there is no expansion. Correct Mark, Tom? The bathroom?

Mr. Ferguson: That is correct, it is carved out of the existing volume of the house.

Ms. Marigold: I mean you do not need any special permission to put a bathroom within a house, within an existing footprint.

Mr. Ackerman: Lys, what we were concerned about was perhaps within the definition of garage there is a prohibition of restrooms, that is why we did it that way, that is why we made the application as we did.

Ms. Marigold: Okay, so the third bay...

Mr. Humphrey: Explain how did the, you have, there is a restroom that is going to be in the garage, how is that not a problem? It is a garage and this is going to have...

Mr. Ackerman: It is habitable space that has a bedroom, it has a living room, and we wanted to create access from the outside so the gardeners would have a place, there are going to be extensive gardens here and the gardeners will have access from outside only. It is not creating a second bathroom. There is an existing, preexisting, nonconforming bathroom.

Mr. Hillel: Now if you ever build a main house on 23 Hedges, can you negate this living quarters as a second residence?

Mr. Ackerman: It is a different lot.

Mr. Hillel: No, but what I am saying on 23 Hedges.

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Mr. Ackerman: Yes, can we do what?

Mr. Hillel: In other words, on 23 Hedges there is no main principle residence and if you build one, can we say that this garage is negated as a second living place?

Mr. Ackerman: No.

Mr. O'Connell: We do not have the ability to do that.

Mr. Hillel: What?

Mr. Ackerman: You cannot take someone's right away, that is called due process, Larry.

Mr. Hillel: The reason it is there is there is no principle residence, living quarters.

Mr. Ackerman: No, Larry, it has always been there. We did not create this. This cottage is preexisting, nonconforming as a second dwelling, it was always on the property. All we did is demolish what was there so we could make it part of the compound for the landscaping. It has a pond, it has a tennis court, it has a pool. What we are not doing at the present is maintaining the open space to have a ten plus acre compound. This is a cottage for the caretaker, gardener, whoever you want to call them who is maintaining ten acres of gardens.

Mr. O'Connell: So, you are taking one full garage bay and adding it, creating additional habitable space including one bathroom. Is that correct?

Mr. Ackerman: No, not a bathroom, a powder room. There is no shower, it is just a toilet and a sink, accessible only from the exterior.

Mr. O'Connell: Understood but you are taking one full bay and creating additional habitable space?

Mr. Ackerman: Yes. As you see from the plans, Phil, as you see from the plans what we did is took the bay and extended out the, extended out the living area.

Mr. O'Connell: So, I have the same issue with this that I do with the prior one which is an intensification of a preexisting, nonconforming use and that it will

drive additional conversion of square footage in preexisting cottages to become habitable space, I think it is a bad precedent...

Mr. Ackerman: Well where is the, there is no GFA question.

Mr. O'Connell: No, it is not a GFA question it is expanding and intensifying a nonconforming use on the existing lot. I think these should be addressed by legislation where it should be some legislation that allows guest cottages. I do not think it is for the Zoning Board to kind of chip away at the existing legislation of the Zoning Code. That is my opinion.

Mr. Ackerman: But you would prefer the garage as opposed to the expansion of the wall coming down and making it into a living room, is that what you are saying?

Mr. O'Connell: Yes, that is correct, I would prefer to keep it as garage space. I mean it is already legally existing, I would prefer to keep it in the existing state with the existing living space and then three bays of garage.

Mr. Ackerman: Well if we were creating another bedroom I could understand that but all we are doing is exchanging a garage with all the environmental impacts of a garage, a car, travel, all of that, we are converting that garage into just living space which means a comfortable place where a caretaker after work can come in with his family whatever and have a place to sit. Right now, he has to sit in the kitchen or his bedroom or her kitchen or her bedroom, we are just trying to make it a bit more comfortable for them.

Mr. O'Connell: I understand what you are trying to do.

Mr. Ackerman: No, no I understand I mean I do not see the precedent really. Where else in the Village of East Hampton are you going to find ten acres of open space, devoted to magnificent gardens and you are saying you cannot have a little more comfort for your landscaper or your caretaker or whatever but I would like to hear from other Members of the Board, I do not see evidence of precedent here.

Mr. Humphrey: Is there a way to ensure that there will be no intensification beyond what they are doing now?

Mr. Ackerman: No, this would be preexisting, nonconforming, they always have a right to build a house in the future but that is not the intention, that is not the

present owner's intention. He is not investing millions of dollars in the restoration of this house on Lily Pond Lane and creating these magnificent gardens with any intention of expanding this cottage. I mean that on its own, if you suggest a covenant, Craig, to limit the development to what it is, I am sure that is something I could discuss with the client.

Mr. Humphrey: That is what I am talking about.

Mr. Ackerman: Yes, I do not see that as an issue because there is nothing else to expand here. We tried, what we did is within the footprint here and all we are doing is, if you look at the existing floor plan, I guess it is three car bays and a bedroom and kitchen and we just wanted to make it a bit more comfortable for the caretakers and the gardeners, that is all.

Ms. Marigold: Larry?

Mr. Humphrey: If there is some way that we could make it so that the expansion would not go any farther this would work fine with me.

Mr. Ackerman: Beth, are you okay with, we will talk to the client about that.

Ms. Marigold: Larry, do you have something to say?

Mr. Hillel: No, I am in agreement. Again, it is preexisting, nonconforming. You are expanding it a bit but I am okay with it.

Mr. Ackerman: Okay.

Ms. Marigold: Chris?

Mr. Minardi: Can I speak? What I would like to say is that as a Zoning Board we have to weigh the benefits of the application against any detriment, and to be honest with you, this is a very large property, I do not see any detriments, you cannot see it, there is plenty of square footage, there is plenty of the setbacks, it is preexisting, nonconforming, I would like a Member of the Board to tell me what the detriments are of adding this bathroom because I do not see many. I mean you cannot, what are the problems, again, if you cannot see it, it is not causing many problems. Do we have any neighbors weighing in on this or anyone from the community? Did they write any letters or do we have any opposition?

Ms. Marigold: I do not believe that if you cannot see it, it is fine.

Mr. Minardi: Well I did not say that, I did not say that but I am just looking to weigh the detriment and benefit. The benefit is that they want a bathroom, what is the detriment?

Mr. O'Connell: So you have a bathroom in a garage that is something that is not permitted, okay, you are intensifying the habitable space, you are increasing the habitable space and intensifying the use, now you have numerous of these, there are a number of these situations throughout the Village where you have like a small bedroom, bathroom over a garage so we will continue to get these requests and here we go, we now set a precedent. I understand the ten acres, I get that but it is the precedence of expanding a preexisting, nonconforming use.

Mr. Ackerman: Phil, Phil...

Mr. Minardi: That is why they are here.

Mr. O'Connell: That is my feeling, Chris.

Mr. Minardi: Okay.

Mr. Ackerman: But if I may, if I may, Phil, what you are saying is exactly what I have been promoting and pursuing with the Village that they need to write some legislation that deals with secondary cottages, dwellings, homes. When I composed legislation three years ago when my wife was ill, that was the point. You could provide a place for a nurse or a caretaker. We do need in the Village an opportunity for people to know what the rules are and this is a perfect example. And I understand, Phil, what you are saying about precedent but perhaps by speaking out like you are now, will motivate the Village Board and the Planning and Zoning Committee to really focus on this because we need parameters. It should not be each one- and one-off application. I think this application is a fair and reasonable one, I would not support it if it was not. We are not adding a bedroom, we are not intensifying the use beyond providing the caretaker or whoever is living here with a place to sit and watch TV. That is all we are doing. We are not saying to them you have to live in your bedroom or in the kitchen. He does not need three garage bays. When the house was built in the 70's, they had three garage bays and they told the caretaker go watch television, go to sleep and get up early in the morning and go clean gardens. Okay, do we have...

Ms. Marigold: Well I think Phil has brought up a very good point...

Mr. Ackerman: He did.

Ms. Marigold: About turning it over because this comes up, I would say constantly about adding something. We do have a precedent with Steven Spielberg, we let him convert a garage bay into habitable space at one point about two years ago and even earlier than that there was a big estate on Hither or Middle that we let have an outside bathroom for their help, for their garden staff. So, we have in the past but I think Phil is right that it is about time...

Mr. Hajek: Chairwoman, can I make a comment please?

Ms. Marigold: Yes.

Mr. Hajek: I have a question for the applicant and I would like to just add a comment. The Spielberg matter that you bring up is interesting. I actually worked on that when I was wearing a different hat and it was after that application that the Code was changed and when Spielberg was approved, the expansion of a second dwelling was a Special Permit so the Board, the Zoning Board was reviewing these as Special Permits and granting Special Permits. As a result of that Spielberg project, the Trustees made the expansion or the existence of a second residence a nonconforming use and tried to limit their expansion by basically categorizing them as nonconforming uses. The Spielberg matter was sort of a tipping point and it was legislated and I think that was about five or six years ago. My question to the applicant, the plans do not actually say, it might be helpful for the Board if you could explain the amount of habitable area within the building now that exists, what is legally preexisting and what is proposed. Fortunately, it might be pretty small, I do not know, it is hard to tell from the plans so maybe that would help them.

Mr. Ackerman: Well, Tom is that, could you, the existing and the proposed staff cottage plans that we have, you all have this but do you have dimensions somewhere Tom on a plan?

Mr. McManus: There are dimensions on the permit set, Len, that was submitted but just for the purposes of sharing the information, the proposed square footage, habitable space in the proposed plan is about 600 square feet out of the, about 1,000 square feet for the structure. The existing, because of the small garage bay

that we are taking over, would be approximately 400 square feet of livable space feet in the 1,000 square foot structure.

Mr. Hillel: So, it is expanding from 400 to 600.

Mr. McManus: Correct.

Mr. Hillel: Okay.

Mr. Ackerman: Billy, does that answer...

Mr. Hajek: Is it not 1,033 square feet, right?

Mr. McManus: The total structure...

Mr. Hajek: You are expanding by about 400 interior space, you are absorbing about 400 of that as habitable space?

Mr. McManus: I think it is more along 200 square feet that we are absorbing but your overall numbers are correct. I was rounding.

Mr. Hajek: I just thought that might be useful for the Board, that is all.

Mr. Ackerman: Thank you Billy.

Ms. Marigold: Anybody want to speak on this now that we have seen, it is around 200 square feet that they are adding...

Mr. Gambino: There is nobody on the line.

Mr. Hillel: I am okay with it.

Ms. Marigold: There is a caller on the line?

Mr. Gambino: No.

Ms. Marigold: No, okay.

Mr. Hillel: What I am saying, I am okay with it.

Ms. Marigold: Craig?

Mr. Minardi: So am I.

Mr. Humphrey: I am okay with it.

Ms. Marigold: Okay well that is three.

Mr. Ackerman: Okay.

Ms. Marigold: All right, let us move onto the Lily Pond Lane property, 128 Lily Pond Lane.

Mr. Ackerman: Lys, do you want to open up and ask any questions of the architects on that?

Ms. Marigold: Yes, I was wondering why the change in the height variance for the main house. Why was that not anticipated when you had come to us before?

Mr. Ackerman: Let me answer first, Mark, before Mark does. The first application was made while the owner was still in possession, he gave us very limited access and they did it based upon a set of plans without being able to commence any demo work or technical work, digging around the foundation, there also had been a tenant in, that is the reason why we could... [inaudible]...when we did and as soon as we closed Ken Wright and the architects started working on foundation plans, that is when the issue arose. So, Mark, do you want to carry it from here?

Mr. Ferguson: No, that is an excellent summary of how things unfolded so it is really the result of an incremental understanding of the conditions in the house as well as the conditions around the house and then also understanding a little bit more clearly from an interior perspective and nature of renovation. This is a house that is distinguished by a really big roof and a ribbon of windows around its perimeter and in addressing the way that ribbon meets the ground we recognized that we needed to raise the house a little bit so that water would drain away from the house and not drain into the house, that we would have a proper step from the ground level up into the house, it is currently virtually flush, all of this encourages water to come in and then we have some very large rooms, rooms with significant proportions like 20 by 40 and they have very low ceilings today and considering the expanse of glass, it seems inconsistent to have a low ceiling...

Ms. Marigold: What is the ceiling height?

Mr. Ferguson: Eight foot nine, eight foot nine in a 20 by 40 room which just architecturally is a very unusual proportion. It is almost deliberately cave like and that just did not seem to be in the spirit of the house.

Mr. O'Connell: So you are asking...

Mr. Ferguson: We are using the additional inches, the additional couple of feet to create a bit of slope, very gentle, not visible but enough to get the water away from the house, create a step up to the first floor, so one step, a five inch step and then to take the ceilings from eight foot nine to ten feet so that they are in keeping with the scale of the rooms and the sense of openness that the French doors create.

Ms. Marigold: Okay and so the roofline where it is above what we have previously granted it is only in two areas, two gables, is that correct?

Mr. Ferguson: The ridge is basically a big T so where that T just penetrated the height envelope, now it has come up a little bit more so it peaks above, if you were to image a glass ceiling on the site, it peaks up just a little bit, you will see that in some of the illustrations. So, standing on the street or basically standing anywhere on the property, I think it would be very difficult unless you were in the know to distinguish the old house from the new house.

Mr. O'Connell: My initial concern with this was that you had asked for a variance once and that you are coming back and asking for a variance a second time, I now understand what is going on with regard to your limited access when you drew up the plans, I mean you obviously have great architects and engineers so it was very concerning that that has been alleviated from my perspective so I do not have an issue.

Ms. Marigold: Okay. Craig?

Mr. Humphrey: First I heard that the increase in the height of the roof was going to be very small, it was only going to be in the peaks of the house and now I am hearing that the whole roof is...

Mr. Ferguson: No, you are correct, it is just the ridges. The ridges are the part of the house that are nonconforming so the very peak and it is a T shaped building so it is the very ridge, you know that sort of the knife edge of the roof.

Mr. Hillel: I mean from my point of view, it is a big property, not a gigantic house, you can have much greater GFA and I have no problem with either issue on here.

Ms. Marigold: Okay. Chris?

Mr. Minardi: Yes, I agree with Larry, thank you.

Ms. Marigold: Okay so now we can move from the main house which is incredibly gorgeous and...

Mr. Hillel: Or will be.

Ms. Marigold: Well it is being done so carefully and so meticulously and I think the architects have done a great job. Now we move to the cottage facing it or sideways from it and you want to put in a basement for the pool equipment, is that it?

Mr. Ferguson: That is correct. We do not want to hear it and we do not want to see it.

Mr. Minardi: I love that.

Ms. Marigold: Yes. Phil?

Mr. O'Connell: I just have a question so since we are moving the pool equipment and mechanicals down there, the previous variance that was granted, is that revoked, does that stay, I am not quite sure of the procedure. I have no issue with expanding the basement to relocate the pool equipment but I am just curious what happens to the existing variance so maybe Beth or Lenny you can touch on that.

Mr. Ackerman: Well we do not need the pool equipment outside, we do not need the variance. I think in the determination you would indicate that it was no longer effective, I think that is the way to deal with it. Could I just ask this, Beth, you are on?

Ms. Baldwin: Yes.

Mr. Ackerman: Can I just ask this. I want to be really clear about height. Mark, could you just, or Tom, let us just be real clear about, so that Beth has to write a decision, where we are going from and where we are going to just so that there is clarity. There are so many numbers floating around about ridge height, this height, and I am not, it is not my wheelhouse at all. So, let us just be clear, maybe Tom just explain what we are looking for a variance to 37.7 feet, correct, is that correct?

Mr. McManus: That is correct, Len and the way the numbers shape out is that there is six inches that would be added to slope grade away from the house, three inches that would be added for the step that Mark was referring to and 15 inches added to bring the eight foot nine ceiling to ten feet.

Mr. Ackerman: And Beth if you would like I could get the architects to send a drawing to you or a letter or something, I think that would be a good idea so when you write the decision, Mark, Tom I want to be absolutely clear that when the Building Department gets your plans and they look at them and they look at the decision, they are all in sync. Can we do that?

Ms. Baldwin: That would be very helpful.

Mr. Ackerman: I think so, I think we should all work together to make sure. Billy, is that a good idea? Because there are just so many numbers floating around.

Mr. Hajek: It does not matter to me. There is a set of plans, if the Zoning Board were to approve the set of plans and that is what you are going to build, right?

Mr. Ackerman: Yes, I want to be sure that the plans that are approved are the plans that Beth puts in her decision, okay.

Ms. Marigold: I think you got it.

Mr. Ackerman: Thank you very much. Nice to see you all.

Ms. Marigold: Good job.

Mr. Ackerman: Phil, nice to see you there.

Ms. Marigold: Is there a motion to close the hearing?

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Mr. Hillel: Motion.

Mr. Minardi: Second.

Ms. Marigold: All in favor...

Mr. Ackerman: Thank you all.

Ms. Marigold: Before we close the meeting, there was an application that was withdrawn which is John and Cecilia Ford at 90 Pantigo Road, do you a motion on that?

Ms. Bennett: No, you do not have to vote.

Ms. Marigold: Okay then we will have a motion to close the meeting.

Mr. Hillel: Motion.

Ms. Marigold: Second?

Mr. Minardi: Second.

Mr. Hillel: Aye.

Ms. Marigold: Good job everyone, see you in person hopefully.

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, July 10, 2020 at 11:00 a.m., or via video-conferencing if necessary, on the following applications and to conduct such other business as may come before the Board. If you would like to participate in the Zoom meeting, contact pbennett@easthamptonvillage.org. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Alerts" tab.

Application of Alexandra Kate Skellet, SCTM#301-2-6-26, for Area Variances from Chapter 278, Zoning, to construct a patio, chimney and heat pump. A 96 square foot variance is requested from Section 278-3.A.(9) to permit 1,596 square feet of coverage where 1,500 square feet is the maximum permitted. A 10.8 foot variance is requested from Section 278-3.A.(3)(a) to construct a chimney located 14.2 feet from the front yard lot line where the required front yard setback is 25 feet. Variances of 8 feet and 7 feet are requested from Section 278-3.A.(5)(b) to construct a patio and heat pump 2 feet and 3 feet from the side yard lot line where the required side yard setbacks are 10 feet, and any other relief necessary. The subject property is 5,000 square feet in area and is located at 33 Church Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Booke Georgia LLC, SCTM#301-12-5-8, for Area Variances from Chapter 278, Zoning, to construct a swimming pool, pool house and patio. Variances of 24.5 feet, 20.4 feet and 11 feet are requested from Section 278-3.A.(5)(a) to construct a patio, swimming pool and pool house 30.5 feet, 34.6 feet and 44 feet from the front yard lot line where the required front yard setbacks are 55 feet. Variances of 22.6 feet and 5 feet are requested from Section 278-3.A.(5)(c) to construct a pool house and swimming pool 17.4 feet and 35 feet from the side yard lot line where the required side yard setbacks are 40 feet. A 4.3 foot variance is requested from Section 278-3.A.(5)(b) to construct a patio 15.7 feet from the side yard lot line where the required side yard setback is 10 feet, and any other relief necessary. The subject property is 46,595 square feet in area and is located at 82 Apaquogue Road in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application of The John and Mary Clarke Family Limited Partnership, SCTM#301-8-13-20, for Area Variances from Chapter 278, Zoning, to legalize alterations of a purportedly legally preexisting nonconforming second residence. Variances are requested from Sections 278-2.B.(1) and 278-7.C.(2)(d)[2] to legalize alterations to a purportedly legally preexisting nonconforming second residential use where a parcel of land is limited to one single family residence. A 5.7 foot variance is required from Section 278-3.A.(4)(a) to legalize

alterations to a purportedly legally preexisting and nonconforming second residence located 28.3 feet from the side yard lot line where the required setback is 34 feet, and any other relief necessary. The subject property is 76,685 square feet in area and is located at 52 Ocean Avenue in Residence District R-80 and is partly within the Ocean Avenue Historic District. This project is classified as a Type II Action in accordance with SEQR.

Application of 23 Hedges Lane LLC, SCTM#301-13-7-7, for Area Variances from Chapter 278, Zoning, to make alterations to a preexisting nonconforming accessory residence. A 47.5 foot variance is requested from Section 278-3.A.(4)(a) to make alterations to a building located 7.5 feet from the side yard lot line where the required setbacks are 55 feet. Variances are required from Sections 278-2.B.(1), 278-7.C.(2)(d)[2], and 278-3.A.(11)(c) to make alterations to a nonconforming use and to install a bathroom that will have no internal access to the residence, and any other relief necessary. Prior variances have been granted to permit the continued existence of an accessory residential building and accessory structures on a lot without a principal residence. The subject property is 217,740 square feet in area and is located at 23 Hedges Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application of 128 LPL LLC, SCTM#301-13-7-8.1, for Area Variances from Chapter 278, Zoning, to make alterations to a principal building and to a preexisting nonconforming second

residential use. A nine inch variance is requested from Section 278-3.B.(2)(a) to make alterations to a residence and elevate it to a height of 37.7 feet where a prior variance granted a maximum height of 36.7 feet. The maximum height permitted by zoning is 35 feet. Variances are requested from Sections 278-2.B.(1) and 278-7.C.(2)(d)[2] to make alterations to a preexisting nonconforming accessory apartment/cottage use when a residential property is permitted one residence. A 47.8 foot variance is requested from Section 278-3.A.(3)(a) to make alterations to a preexisting nonconforming accessory apartment/cottage located 22.2 feet from the front yard lot line where the required setbacks are 70 feet, and any other relief necessary. The subject property is 145,147 square feet in area and is located at 128 Lily Pond Lane in Residence District R-160. This is a contributing property in the East Hampton Village Historic District listed on the National Register of Historic Places. The 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: June 19, 2020
By Order of Lysbeth A. Marigold, Chair, Zoning Board of Appeals, Inc. Village of East Hampton

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: August 14, 2020
TIME: 1:00 p.m.

Richard J. Sawler 16074