

Minutes
Planning Board
August 13, 2020
11:00 a.m.
via Video-Conferencing and
Published by Local TV, Inc.

Those present were:

Bruce A.T. Siska, Chairman
Obron Farber, Member
John S. Tarbet, Member
D. Walker Wainwright, Member
Elizabeth Baldwin, Village Attorney
Billy Hajek, Village Planner
Jonathan Tarbet, Attorney on behalf of Frances W. Levy and Jack Levy
John Huber, Attorney on behalf of Peerless Ariel LLC and Amphitrite
Properties, LLC
John Kean, Applicant, 44 Hunting Lane, LLC
Jody Gambino, LTV Moderator
Pamela J. Bennett, Deputy Clerk

Mr. Siska: Okay, good morning everybody. I would like to welcome everyone to the fourth virtual Planning Board meeting for the Village of East Hampton. Today is Thursday, August 13th and it is 11:00 a.m.

1. Minutes

Mr. Siska: First order of business are the minutes from our last meeting on July 9th that have been previously distributed. Did everybody have a chance to review the minutes...

Ms. Farber: Yes.

Mr. Wainwright: Yes.

Mr. Siska: For any changes or corrections that we would like to talk about? (no) Can I have a motion to approve the minutes as written then.

Mr. Wainwright: So moved.

Mr. Siska: Second?

Mr. Tarbet: Second.

Mr. Siska: All in favor?

Ms. Farber: Aye.

Mr. Siska: Opposed? (no) Excellent. The minutes have been approved, thank you.

**2. Furtherfarm, LLC – 218 Further Lane and
EH 226 LLC – 226 Further Lane**

Mr. Siska: I would like to skip down on our agenda to the adjournments. We have a letter submitted by Ackerman, Pachman, Brown & Goldstein LLP respectfully requesting an adjournment of today's scheduled August 13th Planning Board meeting for 218 and 226 Further Lane which I think we shall grant. If there are no objections to that, I will entertain a motion.

Mr. Wainwright: So moved.

Mr. Siska: Second?

Ms. Farber: I will second.

Mr. Siska: All in favor?

Ms. Farber: Aye.

Mr. Wainwright: Aye.

Mr. Siska: Opposed? (no) All right, so moved, thank you.

**3. Frances W. Levy and Jack Levy –
43 Georgica Road and 39 Georgica Road**

Mr. Siska: Lot line modifications, 39 and 43 Georgica Road, Mr. Tarbet if you are on, I do not see you, if you could recuse yourself please.

Mr. John Tarbet: I sure can.

Mr. Siska: Okay, we have a letter submitted from Tarbet and Lester PLLC to amend the lot line modification that we had been previously talking about. Jon, if you are on, you can unmute yourself and just talk about the revision that you guys are proposing for these lots.

Ms. Baldwin: Before you guys, let us just be clear about which Board Members are here, I do not see John Tarbet Sr. either so, let us just make sure we have a little roll call maybe of all the Board Members.

Ms. Bennett: Mr. Siska?

Mr. Siska: I am here.

Ms. Bennett: Mr. Wainwright?

Mr. Wainwright: Here.

Ms. Bennett: Ms. Farber?

Ms. Farber: Here.

Ms. Bennett: And John S. Tarbet is recusing so he should not be there.

Ms. Baldwin: I do not know if I had seen him on at all, did anyone else?

Ms. Bennett: He was there.

Mr. Wainwright: He was.

Ms. Baldwin: He was, okay, I just want to be clear, that is my own fault then, sorry about that.

Mr. Siska: Okay, Jon you are up.

Mr. Jonathan Tarbet: Hi, Jon Tarbet for the applicant. So, this is sort of a curveball in our application. We had been pursuing something entirely different and an opportunity came up with our neighbor to our rear. If you look at what was submitted, we have always had a very unusual property,

predates the Board, Billy, and myself. Nowadays you would never allow the property to be carved up the way our property is and if you look at it, it is about one-third of an acre notched out of the back of our property where the line should be straight, there is a notch out of it, it is about one-third of an acre and the neighbor, we have reached an agreement with the neighbor where they will allow us to reincorporate that back into our property provided it is okay with the Board. Their property and our property are conforming properties to lot size and they will remain conforming to lot size after the notch is reinserted. It will not create any nonconformities, everything on their property, if you look at their property, this area is sort of unused anyway, it is on the other side of the driveway, there are no structures near it. Our garage actually has some preexisting nonconforming living space in it so it would actually create conforming setbacks for our garage if we were to incorporate this property in. Otherwise there is no real change proposed. It is just a really nice way to square off the back of our property.

Mr. Siska: Okay...

Ms. Farber: I am looking at the survey and could you just tell me where that is since what you are talking about is not showing up on the survey as what you are describing and is that next to, there is a private driveway with a gate. Are you talking about that drive that comes alongside your property that you are talking about?

Mr. Jonathan Tarbet: First I just want to make sure we are all looking at the same thing because we are not seeing each other in person. What we propose is the way Billy suggested that it be done this way. You basically show, it is three different surveys on one piece of paper...

Mr. Siska: Right.

Mr. Jonathan Tarbet: And if you look at the middle survey, there is a shaded out gray area, that is the third acre we are talking about, so that little grayed out area is the property we are talking about. If you imagine it not there, that is how our property looks now and obviously it is shown there in gray, that is what we want to incorporate back into the property. As far as the driveway I am talking about, I am actually talking about the circular driveway behind us and I am just pointing out that this area of land is actually on the other side I guess you call it to the south of their circular

driveway. It is really an unused, unneeded portion of their property, it does not affect any setbacks or anything like that.

Mr. Siska: Okay. And then Jon, that vacant lot number 43, you are not proposing any change to that anymore, correct?

Mr. Jonathan Tarbet: Oh correct. We abandoned that and we do not intend to go back to it.

Mr. Wainwright: Has the third of an acre already been transferred?

Mr. Jonathan Tarbet: No, so we approached the neighbor and got it under contract so we will, the way this would work would be that if the Board is okay with it and the Health Department were to sign off on it, we would close on the transaction and then there would be a deed where they would deed us that third of an acre, yes, so we would just do it by deed.

Mr. Siska: Billy, have you had a chance to take a look at this and review it?

Mr. Hajek: Yes, I gave it a very brief review this morning, the Board received it on, just on Friday so I have not had a chance to provide a written report to you but in general I agree with Jon's comments. I mean it takes what is an existing, unusual lot layout or two lots and it regularizes them, and it also makes the garage apartment building conforming so it looks good to me. If the Board would like I could prepare a written, more thorough written analysis for the next meeting.

Mr. Siska: Okay, I think that is probably a good idea. Beth, do you have any comments?

Ms. Baldwin: No comments.

Mr. Siska: Any of the Board Members have any questions or comments regarding this?

Ms. Farber: No.

Mr. Siska: No, okay. Okay so I think we can wait for Billy's sort of report for the next meeting. I think this is a pretty good plan moving forward and I guess we will just wait on Billy's report and move forward from that. Okay?

Mr. Jonathan Tarbet: Okay, thank you for your time.

Mr. Siska: Thanks Jon.

4. **Peerless Ariel LLC and Amphitrite Properties, LLC**
39 Middle Lane and 35 Middle Lane

Mr. Siska: Next on our agenda is 35 and 39 Middle Lane, there is a caller on the line, please unmute yourself so we can discuss your application. We did receive a letter from Kenny Collum the Fire Marshal stating that this lot line modification will require a FAAR road. We also have the updated survey. Billy, have you had a chance to look at this one as well?

Mr. Hajek: Yes, I took a quick look at the re-submission. The survey has been amended pursuant to my prior recommendations to the Board. It clearly shows the areas to be transferred similar to the last project, this is sort of an unusual lot layout and this proposed lot line modification regularizes the two properties, makes them more conforming in shape. It was decided or determined that the project is a Type II Action so no SEQR is required and no variances would be required for it, and I think the only remaining item is the FAAR road requirements whether or not the FAAR requirements need to be made or what they are and then also the easement, whether the easement needs to be memorialized in a modern document which my prior recommendation was that it should be.

Mr. Siska: Right, right okay. Is there any comment from the applicant?

Mr. Huber: Yes, good morning Chairman, Members of the Board, I just by way of preliminary statement I want to thank all of the people in the Village, Pam and Ken and Elizabeth and the Board Members for the time you have dedicated to the application. We understand that a FAAR will be required and we will gladly coordinate a proposed design with the Village's Code Enforcement Department. We consent to revise the existing deeded utility easement, Chairman, you astutely noticed that not only is the, there is both gas and water line that migrate out of the flagpole strip over onto 35 Middle Lane which is designated as Lot 2 on the survey that you have so we would be happy to prepare and submit the necessary documentation to the Village for review. I am assuming that Billy would be our point person at the Village for that review of those materials. And with those comments being made, I just had some sort of with respect to process moving forward, is the

Board willing to issue an approval for the application subject to our submission satisfactory for our proposal and the proposed utility easement with the related survey calling out the metes and bounds, and also I request the Board to consider whether you are willing to waive a public hearing in this case based on the de minimis scope of the proposal.

Mr. Siska: Beth, can you...

Ms. Baldwin: I do not, maybe I am missing it, but, John, I do not see the waiver provision in the Code that allows the Board to waive the public hearing.

Mr. Huber: I carefully reviewed the Code, I do not see a provision that really jumps out that we could call express. I really ask the question within the context of what the Board's procedure has been historically in situations where variances are not required.

Ms. Baldwin: I cannot answer that personally but maybe Billy or if any other Board Members, has the Board ever waived the public hearing? I do not see the provision in the Code that would allow you to do that, but I do not know if there has been...

Mr. Hajek: There is a provision, in the subdivision regulations, buried at the very end, there is a provision that basically says the Board can waive almost any requirement within the Chapter, the Subdivision Chapter. I think it is that provision that has been used to allow the Board to waive public hearings for lot line modifications. In my experience they have been waived in situations where an applicant received variances from the Zoning Board and the Zoning Board held a hearing and there was no one, nobody spoke at the hearing, therefore, it was highly unlikely that there is any concern in the neighborhood. Those are the situations that I am aware of where the Board has waived a public hearing for a lot line modification. In this case, they are not changing the lot area so it is not going to change the allowable floor area or coverage, it is simply regularizing two lots so in my personal opinion it does not matter one way or the other.

Mr. Huber: If I may, Billy, are you referring to Code Section 252-5.2 waiver?

Mr. Hajek: Correct.

Mr. Huber: Excellent, thank you. I read that as well, it does give the Board, in my reading of it, broad discretion but certainly I defer to Village Attorney Baldwin's interpretation.

Ms. Baldwin: Let me just take a look at it and I can let you know.

Mr. Huber: Thank you.

Mr. Siska: That sounds good. And, John, so you are going to do a revision to the site plan showing the FAAR road revisions?

Mr. Huber: Yes, sir, that is correct. I imagine we would, the applicant would communicate with Code Enforcement Officer Collum as to the design parameters that he would like to see and we are happy to do that and then we can incorporate that into the document that you have, the survey. Just so the record is clear, that was the Saskas survey, it has the three different before, proposed, and after, it is dated August 4, 2020...

Mr. Siska: Yes.

Mr. Huber: And we could revise that in accordance with Mr. Collum's direction on design parameters.

Mr. Siska: Okay, perfect, that sounds great.

Mr. Hajek: Just to comment on one of John's requests. I do not know if it would be such a good idea to design the FAAR road as a condition of lot line modification approval. I think the Board would be best served to see it, to know where it is going, to see it on the plan, and then decide on the application. I do not think that should be a condition of the approval.

Mr. Siska: Okay.

Mr. Hajek: The actual easement document could be but pictorially showing it on the survey I think needs to be done beforehand.

Mr. Siska: Okay, I think that sounds good. Does any Board Members have any comments?

Ms. Farber: I do.

Mr. Siska: Okay.

Ms. Farber: I just want to affirm that I would like to see the prior requirement that both lots share a common driveway, I would like to just say that I think it should be formalized again.

Mr. Siska: Okay.

Ms. Farber: And, also, I have a question. Billy, in your memorandum of June 25th you refer to a run-in horse shed. What is that? What is a run-in horse shed?

Mr. Hajek: My understanding, I believe it was labeled that way on the survey but my understanding of a run-in horse shed is like an open, it usually has no doors on it, it is usually like an area refuge for horses that does not have any doors on it in a field. That is what my recollection of one is.

Ms. Farber: Okay.

Mr. Siska: Anybody else? (no) All right so we will wait on the documents and the updated survey and we will move on from there. Thank you.

Mr. Huber: Thank you.

5. **44 Huntting Lane, LLC – 44 Huntting Lane**

Mr. Siska: Next up on our agenda is 44 Huntting Lane, LLC. This is a driveway easement revision. We have received a few letters in reference to this application. The first one is requesting an extension of time to file the maps. We have also received a letter from Osborne and McGowan who represents the contract vendee for Lots 2 and 3 in which his client supports the application of the new revised plan, and we have also received a letter from Giorgio Citarella explaining the revision and along with the revised survey showing those revisions. I think the first thing we should probably take care of is to grant the extension of time to file the maps and I believe that is for an additional 60 days. Do we need to vote on that?

Ms. Bennett: Yes.

Mr. Siska: Can I get a motion for that please?

Mr. Wainwright: So moved.

Mr. Siska: Second?

Mr. Tarbet: Second.

Mr. Siska: All in favor?

Mr. Tarbet: Aye.

Mr. Wainwright: Aye.

Mr. Siska: All right, great, thank you. So that extension has been granted, thank you.

Ms. Farber: Can I just make a comment here, Bruce, can I make a comment here?

Mr. Siska: Sure.

Ms. Farber: Six months takes us into the fall and in light of the history of the care of this property I would just like to say that in granting the extension I hope that the owners of the property will maintain it as appropriate for the historic street that it exists on since there is a history of that not having been done, I would like to reassert that I hope it is done in the next 60 day extension period.

Mr. Siska: Okay, great, thank you. Ken, would you mind explaining the change in the fire code that helped or made this revision come about since our last meeting. I understand there has been a change. Could you just explain and walk us through what exactly was changed and how this affects basically Lot number 3?

Mr. Collum: Sure. Good morning Board Members. So, in the 2020 update of the New York State Fire Code which took effect on May 12th, there was quite a bit of clarity added to this section of Fire Code Chapter 511. And in that they clarify the distances to say that any property that has a driveway length of greater than 500 feet would require a turnaround. The back of this property I believe is 400 and some odd feet so there is no physical way to get a driveway longer than 500 feet. The applicants have said that they

would limit the structures on those two rear lots to no more than the four structures. If they put a fifth structure on the property, they would trip the last Code Section in 511 which would require fire apparatus access roads are for one and two-family residence to be in compliance with Section 503 of the New York State Fire Code and what happens is we have a dead end clause in there that says any road that does not exit onto a public right-of-way or a fire apparatus access road shall meet the following requirements. My suggestion to the Board is that you currently have a 20-foot-wide easement and I believe they are making an L come across the front for the access to Lot 3 I believe or the west side or The Circle side...

Unknown Voice: Two.

Mr. Collum: This way at any point if a fifth structure were proposed, they could install the fire apparatus access road to a width of 20 feet in length and a turnaround at the end because as soon as you hit that five building, any road over 150 feet shall be provided. So, the applicant I believe has not filed these, nor do we have a filed map at this point so if that easement is there and maybe there is some verbiage saying that if for some reason, even if the lots combined have five buildings, they would put that road in. We would not be able to issue a Building Permit without that road. So, there is a check there for us to make sure that life safety is taken care of but at the current time, the proposal and the deed conveyances that they are going to file that there are no more than four structures, then they would just be putting in a 14-foot-wide driveway within a 20-foot-wide easement.

Mr. Siska: Okay great, thank you. Billy, have you had a chance to take a look at this revision? I know it just came in within the last few days.

Mr. Hajek: Yes, I reviewed it this morning. My prior concern was that the turnaround absorbed so much space on the property that it really, I thought it restricted the buildability of Lot 3 without the 70-foot turnaround area, I think it is obviously a lot less restrictive. The map also shows proposed house and proposed septic system, it shows there is ample room on the property and it is not going to be a situation that is going to force variances which is what my concern was previously so I have less concerns with it now.

Mr. Siska: Okay, perfect. Beth, do you have any comments? (no) Does the applicant have anything that they want to add? They are on mute so I cannot tell.

Mr. Kean: I could not get it off mute, my apologies. John Kean, the applicant. No, I think Ken Collum and Billy Hajek explained it properly that the Code has changed which has made this a lot easier for us and I think this would be a lot more, we would appreciate this change. It is really no change because now it is just a driveway.

Mr. Siska: Okay, I guess the question is, Beth, do we have to go to a public hearing on this for this revision or no? Beth, you are on mute.

Ms. Baldwin: It depends upon how much of a change it is from the previous determination, the previous map. I was not here during that original review so...

Mr. Siska: Neither was I. So maybe we can take a look at that and determine that.

Mr. Hajek: That is really a matter for a judgment call for the Board Members to make. My personal opinion is that the lots have not changed in size, the lots are all the same size, the boundaries, the proposed boundaries have not changed. This is just a change in the common driveway based on a change in the New York State Fire Code.

Mr. Siska: I think it is a better, I think we can probably do away with that, I think. Does anybody else have any thoughts on that? No? Okay. Billy, is there anything else that we need in addition to this map. I know we talked about a legal documentation of the new metes and bounds, is that something we have to wait on before we can...

Mr. Hajek: Well the map has to get filed, recorded with the Suffolk County Clerk's office and usually all the legal documents are filed simultaneously with the recording of the map. My understanding is that the documents were previously prepared and submitted and approved by Linda Riley, the former Village Attorney, this does change the location and the descriptions for those, for at least the common driveway, so those legal documents would have to be amended, submitted to Beth for review, and then if they are appropriate, then they could be recorded along with the map.

Ms. Baldwin: I will have to prepare an updated, a modification approval as well.

Mr. Siska: That sounds good. We will wait on that and get all that documentation together and the map can be submitted then.

Mr. Hajek: Can I, John Kean, do you understand what you have to, you have to revise the common driveway.

Mr. Kean: Yes, that is not a problem, we already had Saskas put it on, we will get the metes and bounds, that is the only change is to take the old one off and put this on so I think it is minor paperwork that we will take care of immediately and get over to the Attorney.

Mr. Hajek: Okay.

Mr. Kean: I assume we do not have to come back to this Board then, we can just go through the Attorney and then come back and get it signed, am I correct?

Mr. Hajek: After you submit the legal documents to Beth, if they are okay, then the Board has to approve the modification so there would be a resolution approving the modification, then after that the Board could sign the map and then you could proceed to filing.

Mr. Kean: Not to, I guess everybody is kind of anxious because this has taken some time, is there any way for the Board to approve the map as it is and subject to the language that we are going to do with the Attorney? It is kind of minor.

Ms. Baldwin: No, we need the, the Chairman cannot sign until we have a resolution adopted by the Board.

Mr. Kean: And that resolution cannot come without...

Ms. Baldwin: Hearing, we need the meeting, a Planning Board meeting.

Mr. Kean: Okay, I think we have done this before, I do not want to push it but obviously I am, we have had approvals, and we do a lot of this, we have had approvals subject to the language being changed. My only concern is

we lose another month to do this and I have a buyer that is anxious to start building.

Mr. Hajek: It is a written resolution that has to be approved by the Board, we cannot do that at this meeting, they cannot.

Mr. Kean: Okay, all right. Okay.

Mr. Siska: Okay, great, we will wait on that and hopefully that will be ready for the next meeting and we can move on. Any other comments? (no)
Thank you.

Mr. Kean: Thank you.

Mr. Siska: Does anyone have anything else they want to bring up before we adjourn?

Mr. Tarbet: I just want to make note to Pam that I am present, John Tarbet Sr....

Mr. Siska: Oh, John is back.

Mr. Tarbet: But I do not see my face on the screen but I have been present for the whole meeting other than when I was recused.

Ms. Bennett: Okay, thank you for letting me know that because I cannot see everybody. That is great.

Mr. Siska: Thanks John.

Mr. Siska: Do I have a motion to adjourn the meeting?

Mr. Wainwright: So moved.

Mr. Siska: Second?

Ms. Farber: I will second.

Mr. Siska: All right, all in favor?


Mr. Wainwright: Aye.

Ms. Farber: Aye.

Mr. Tarbet: Aye.

Mr. Siska: All right, great, thank you all. Have a good weekend.

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: September 14, 2020
TIME: 9:00 a.m.

A handwritten signature in black ink, appearing to be a stylized 'W' or similar initials, with a horizontal line extending to the right.