

Minutes
Planning Board
September 10, 2020
11:00 a.m.
via Video-Conferencing and
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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
Kenneth Collum, Code Enforcement Officer
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
Georgiana Slade, Applicant, Peerless Ariel LLC and Amphitrite
Properties, LLC
David Mellgard, Applicant, 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: All right, we are going to start. Okay, good morning, I would like to welcome everyone to this fifth virtual Planning Board meeting for the Village of East Hampton. Today is Thursday, September 10th and it is 11 a.m.

1. Minutes

Mr. Siska: Our first order of business on our agenda are the minutes from our last meeting on August 13th which have been previously distributed. Has everyone had an opportunity to have a look at them and are there any changes or corrections that we would like to discuss? If not, I would entertain a motion to approve the minutes as written.

Mr. Wainwright: So moved.

Mr. Siska: Second?

Ms. Farber: Second.

Mr. Siska: All in favor?

Mr. Tarbet: Aye.

Mr. Wainwright: Aye.

Mr. Siska: All right, thank you, the minutes have been approved.

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

Mr. Siska: I am going to skip down on our agenda to adjournments before we get started. We have another letter submitted by Ackerman, Pachman, Brown and Goldstein LLP respectfully requesting an adjournment of the scheduled September 10th Planning Board meeting for 218 and 226 Further Lane which we shall grant. If there are no objections to that, I will entertain a motion.

Mr. Tarbet: So moved.

Mr. Siska: Second?

Mr. Wainwright: I will second.

Mr. Siska: All in favor?

Mr. Tarbet: Aye.

Mr. Siska: All right, great, perfect, thank you.

3. Jack Levy – 39 Georgica Road and
Georgica Road LLC – 47 Georgica Road

Mr. Siska: Okay, moving along, lot line modifications, 39 and 43 Georgica Road, Mr. Tarbet if you could recuse yourself for this one and Jon Tarbet if you could turn all of your stuff on.

Mr. John Tarbet: I am recusing myself now.

Mr. Siska: Okay. We have a memo that was submitted by Billy Hajek dated September 3rd, Billy could you just run through your memo for us. I know there was a couple of things sort of at the end that I think we would like to see on the maps.

Mr. Hajek: Sure. This is a pending application, it was previously submitted to adjust the boundaries between 39 and 43 Georgica Road and it has been revised now to swap land between 47 and 39 Georgica Road. I will not go through the entire memorandum but it is a little bit different than the prior application or the prior request. This actually does transfer 15,300 square feet of property from one lot to the other, it goes from 47 Georgica Road to 39 Georgica Road. It does square off the boundary between the two lots, right now it is an irregular line and the transfer creates more regularly shaped lots which is generally perceived as a good thing. It does appear to be a better layout for both parcels and it also yields a conforming setback for the existing garage apartment located on one of the parcels so there are some benefits to the project. The one item I do note is that it appears the residence located at 47 Georgica Road would exceed the lot area, by deducting the land area, it reduces the amount of allowable GFA and I believe the house is going to exceed that allowance so it does appear that a variance would be needed from the Zoning Board in order to proceed with the lot line modification but overall, other than that, it does not seem to be any major issues with it. The map does have a few details that have to be added, they are listed in my memorandum, if you have any questions about it, I would be happy to answer them and it does need to be referred to the Fire Marshal just to determine whether or not any road improvements or access improvements are required.

Mr. Siska: Okay, great, thank you. Jon, do you have anything you would like to add in reference to Billy's memo?

Mr. Jonathan Tabet: No, thank you Billy for the memo and we have already taken care of ordering all the items he has asked for. I guess the only question would be a procedural one, knowing that we need a Zoning Board variance for the GFA issue and we just make that application, do they go first, does the Planning Board go first, how do you want to handle that?

Mr. Siska: I think Billy what you just said, we would need the Zoning Board approval before the Planning Board can approve this, is that correct?

Mr. Hajek: Yes, I do not think the Board could act on it if it necessitates a variance, I do not think the Planning Board can legally act on it until the Zoning Board, you have to go to the Zoning Board, secure the variance, and then come back to the Planning Board.

Mr. Jonathan Tabet: Are there comments from the Planning Board to the Zoning Board? Is there sort of coordinated review where we would ask the Planning Board whether they have any concerns and have those comments sent to the Zoning Board?

Ms. Farber: I have a question.

Mr. Siska: Okay.

Ms. Farber: Does the deed of transfer of land from the neighbor need to be finalized before a variance can be granted?

Mr. Jonathan Tabet: I will let Beth answer that.

Ms. Baldwin: The deed for the parcel? I am not following what...

Ms. Farber: The land from the neighbor.

Mr. Siska: The neighbor in back, Obron?

Ms. Farber: Yes.

Mr. Jonathan Tabet: I think the answer is no. I think that it would be a condition of approvals.

Ms. Baldwin: Right. And the ZBA determination would be conditioned on the lot line modification occurring.

Mr. Hajek: And to answer Jon's question, I mean the Planning Board is certainly free to give the Zoning Board comments on the project. Because it is not a lot area variance you are not obligated to provide the Zoning Board with any comments. If it were a lot area variance, then I believe you are actually required to give the Zoning Board a formal recommendation but, in this case, it is a gross floor area variance, you are not obligated to do that but you certainly could if you wanted to.

Mr. Wainwright: It seems to me that we might and that would ease the process.

Ms. Baldwin: If the Board is looking favorably upon the application, they are more than free to express that to the Zoning Board in a written memo or comments or however the Board moves forward with those things.

Mr. Wainwright: Because I guess if I were on the Zoning Board, I would want some sort of comfort.

Mr. Jonathan Tabet: I think that is the issue. I think in the past some Boards have felt that other Boards would tie their hands, in other words, if the Zoning Board were to grant the variance, maybe if the Planning Board did not like the application, the Zoning Board may not want to grant the variance. So, I think the idea is that, I guess I am thinking out loud, I think that if it is something the Planning Board is not objecting to, then maybe it helps the Zoning Board in their process to know that as opposed to them shooting in the dark. I do not know.

Mr. Wainwright: I would agree with that comment.

Mr. Siska: How does the Board feel about this modification? To me, I think it is a lot better than the first go-round so I do not have a problem with it. How does the rest of the Board feel about it?

Mr. Wainwright: No problem.

Ms. Farber: I am good with it.

Mr. Siska: Okay, so Beth, who would write up some kind of memo if we wanted to shoot that over to the Zoning Board along with Jon's application. Is that something you do or was that something...

Ms. Baldwin: I think Pam and I can work on something together.

Mr. Siska: I think we should go ahead and do that; I think it will make the process a lot easier, I think this Board is in favor of the modification so if we can make it easier down the road, I think that is what we should do.

Ms. Baldwin: Okay.

Mr. Siska: And then in the meantime, Jon, you are going to take care of the items listed on Billy's memo, add those to the survey?

Mr. Jonathan Tarbet: Correct, I am wondering if it makes sense to me not to come back here, like I would adjourn next month's, and I suspect I will not have anything back from the Zoning Board next month, so maybe I do not come back to you until I have word from the Zoning Board?

Mr. Siska: I think that makes sense.

Ms. Baldwin: I agree.

Mr. Siska: And then Ken you are just going to take a look at any kind of road improvements. I do not think this triggers FAAR but if you just want to take a look at it and prepare something for us.

Mr. Collum: Sure.

Mr. Siska: Okay, great, thank you. Anything else in reference to this application?

Mr. Jonathan Tarbet: Not for me.

Mr. Siska: Okay, all right, great, thanks Jon.

Mr. Jonathan Tarbet: Thank you guys, I appreciate it.

Mr. Siska: Mr. Tarbet, you can come back.

Mr. John Tarbet: I am back.

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

Mr. Siska: Okay, next on the agenda is the application for 35 and 39 Middle Lane, John, I see that you are here and unmuted and ready to go. We actually received a letter from John of Dayton, Voorhees, Balsam LLP along with a revised survey from Saskas Surveying and a FAAR drawing with drainage prepared by Drew Bennett. Billy and I did have a quick discussion yesterday and I did re-visit the site, I think Billy did as well, and one thing that did come up which I was not aware of and I should have been so I apologize for that, there is a lot of existing vegetation along that 20 foot right-of-way starting from Middle Lane going back to the flag lot property, and I think I just want to make the applicant or we want to make the applicant aware that that existing vegetation, it is pretty mature vegetation, will have to be removed. The FAAR road does take up that entire 20-foot width going back so that something maybe we should, the Board and the applicant should talk about right now just to make sure they are aware of that. I am not sure the neighbor at 43 Middle Lane is aware of that, I know it screens out the property to the west really well so I think that is something we should sort of talk about today. The other thing we will have to do before we go too much further is submit the drainage and FAAR road to the Village's Engineer for their approval. Ken, you may want to have a look at that as well. So, John, do you have any comments you would like to make in reference to what I have just said?

Mr. Huber: Yes, Mr. Chairman, thank you for the opportunity to speak. The approval of the application is of the utmost importance to the applicants and I believe that they will cooperate in every way with insuring that the 20-foot flagpole section is properly cleared of vegetation to accommodate the FAAR. If the Board is inclined to do so, I would ask, just to properly memorialize the Board's position, feel free to include that as a condition of approval that it must be cleared of the vegetation and I know that, so let me stop there, I do not want to get too far field, I will respond directly to your point.

Mr. Siska: Now, John, does the neighbor, is the neighbor aware that that vegetation needs to be removed. I am just wondering if we need to go for a public hearing on this or not. I am little concerned about the neighbor, I did

do a drive-by last night and did have a pretty in depth look at that area in question going from the road all the way back, and like I said, it is heavily vegetated, I just want to make sure that the neighbors are aware. Once that gets removed, it is going to be a whole different sort of aesthetic between those two properties.

Mr. Huber: It is an important point Mr. Chairman. So I have, I think there are two sort, my instinct is giving me two responses. I think it is important to, for the applicant to confirm whether the vegetation is on its property or not. If it is on, within the flagpole strip, it is certainly within the applicant's right to remove it because the vegetation is on their property. I think probably as a matter of neighborly accommodation, if the vegetation is not on the applicant's property, then they have to confer with the neighbor about the removal of such material but based on, I would say for example, on the lot line modification map that was prepared by David Saskas, most recent version submitted on September 3rd, any vegetation that is in that flagpole strip that is on the client's property...

Mr. Mellgard: John, it is David Mellgard and Georgiana Slade.

Mr. Huber: Yes, please, you feel free to address...

Mr. Mellgard: Husband and wife, and we are the applicants, my wife Georgiana Slade. We can add definitive color to the Board's question. That strip of vegetation, and there are some white pines on it, among other, and privet, overgrown and yes, effective screening, but of that screen that, Bruce, you may have seen on your visit, part of that is our neighbor's 45, I guess, Middle Lane, part of that is on our neighbor's property, on their side of the line and relatively effective screening that they have placed years ago, mostly privet. They have also constructed a bit of a berm on their side of the property. There will be screening, I am not going to call it adequate or perfect because it is a matter of opinion but there will be screening remaining there but it has been part of our plan from the beginning to utilize that vegetative part of the parcel for the FAAR, that is our flagpole, and in order to put the FAAR in place, we will have to clear that vegetation, a small carport that is in existence which will probably be a benefit to the neighbors, and indeed we have notified all our neighbors that we are going to do landscaping and clearing and of that flagpole, probably more than a third and close to half has been cleared, that strip. What you may not have been able to pick up from your visit is if you are at the beginning of the flagpole, close

to Middle Lane, where there are some mature white pines which my wife's father planted years ago with labor supplied by his son-in-law, that has not been cleared, we left that for the time being. Beyond the carport, which is about a third of the flagpole, that was all cleared without any acrimony between us and our immediate neighbors. And that was, there were some wild cherry trees in there, mature, very large, it was a shame to bring them down, there was a hickory tree and there was some ailanthus and some other invasives but it was all cleared, without dispute, and indeed without greatly affecting the screening because of the existence of the privet on our neighbor's property. But if we do not clear that vegetation, we do not have a FAAR.

Ms. Farber: When was that clearing done?

Mr. Mellgard: Beginning of the summer, late spring, early summer and it was part of a process in which a great deal of cleanup was done around the borders of this flag lot, the interior part and the flagpole. So again, half of the flagpole has been cleared, our neighbors were notified of it by a letter that Georgiana put together and we have not have had conversations with them subsequent to a lot of action on a part of the flagpole already.

Mr. Siska: Okay, thank you.

Ms. Slade: Can I add one other thing.

Mr. Siska: Okay, go ahead.

Ms. Slade: Bruce, I did have some email exchange with all four of my neighbors around the clearing part and it was all positive and saying that they appreciate it because there were a lot of invasive weeds that were overgrown. My father was almost 93 when he passed away and so a lot of the normal maintenance that someone would take care of had not been taken care of so everything was very positive with them and I email correspondence with four and with my sister five.

Mr. Siska: Okay, all right, great, thank you for that. I just wanted to make everyone aware that that was something that Billy had found the other day and I went along and verified that as well.

Ms. Farber: Bruce? I want to say that I appreciate that you and Billy would note that the neighbor might be negatively impacted and be concerned enough to bring up at a meeting such as the Planning Board meeting, we recognize that the owners of the property, they have certain rights, but it is nice that you and Billy noticed it and were concerned enough to bring it up.

Mr. Siska: Okay, thank you. Now Beth, I have a question for you. Do we need to go for a public hearing on this or is this something that we can sort of waive?

Ms. Baldwin: The Board can waive, if the Board decides, the Board can waive the public hearing but you have to make that a formal, it should be in the minutes that the Board has waived the public hearing and vote on it.

Mr. Siska: We need to vote on that. All right, how does the Board feel about waiving the public hearing on this application?

Mr. Wainwright: I am good with it.

Mr. Tarbet: I am good with it also.

Mr. Siska: Obron?

Ms. Farber: I am not enthusiastic. I appreciate that the owner is saying that she has emails that the neighbor is fine with it but I do not know that I am okay with it.

Mr. Siska: Okay, I would entertain a motion to waive the public hearing on this application.

Mr. Wainwright: So moved.

Mr. Siska: Do I have a second?

Mr. Tarbet: Second.

Mr. Siska: All in favor?

Mr. Tarbet: Aye.

Mr. Wainwright: Aye.

Mr. Siska: And opposed? Yes, okay, so the vote from the Board is that we can waive the public hearing on this application. I think we still need to wait on, before we go full ahead, we need to wait on comments for the proposed FAAR road plan and drainage from the Village Engineer and also from Ken Collum just to make sure that flag strip is FAAR compliant. Ken?

Mr. Collum: Just a quick, I have had the review of that road with the architect, we went through a preliminary and laid that out, I have had that in front of our Fire Chief, he is fine with it, I think he will author a letter to that effect that it meets the standard so I think you are okay. We have to, unfortunately because Drew is the engineer of record for the project, we will have to go to another engineering firm so that we do not have a conflict of interest and once that is done, we should be in pretty good shape as far as the FAAR road goes, as far as fire service is concerned.

Mr. Siska: Okay, I think that is the only thing that is going to hold this up. So, let us wait until we get that information back and then we can move forward with this. Is the Board okay with that?

Mr. Wainwright: Yes.

Mr. Siska: Okay, great, thank you.

Mr. Huber: Thank you Board Members and thanks Billy and Ken and everyone for all the hard work you did and Beth reviewing and providing comments. Thank you.

5. 44 Huntting Lane, LLC – 44 Huntting Lane

Mr. Siska: Next on our agenda is the easement/driveway revision for 44 Huntting Lane, LLC. We have received a letter from Giorgio Citarella with a revised survey from Saskas Surveying just showing the addition of a dimension line that was added for the back-left lot, I believe that is Lot 1, we have also received the modification from Beth. Has everybody had a chance to read through the modification that Beth has prepared? Yes?

Ms. Farber: Yes.

Mr. Siska: Does anybody have any changes to that? Okay, it does not sound like it. So, Beth, do we vote on that modification?

Ms. Baldwin: Yes, you will have to actually, you are now adopting a resolution that is allowing for the modification and changing the map.

Mr. Siska: Perfect. So, can I get a motion to approve the modification resolution as it is written.

Mr. Tarbet: So moved.

Mr. Siska: Second?

Mr. Wainwright: Second.

Mr. Siska: All in favor?

Mr. Tarbet: Aye.

Mr. Wainwright: Aye.

Mr. Tarbet: Opposed? All right, so carried. Great, thank you. With that in mind, I guess I will need to come into Village Hall and sign the maps so that can get forwarded onto Suffolk County?

Ms. Baldwin: I have reviewed the C and R's and the changes to the driveway easement and the descriptions and everything is okay. So, I am actually going to forward a memo to Pam just to have it in the record that it has been reviewed but, in the meantime, the resolution itself approves you to sign the map provided all conditions are met. I do not know if they had any other outstanding conditions besides the C and R's.

Mr. Siska: I do not believe there was anything outstanding. Billy, can you just comment on that. I think we have everything cleared up.

Mr. Hajek: Yes, I think it is all set.

Ms. Baldwin: Okay, then you are good to go.

Mr. Siska: Great, thank you. Anybody have anything else they want to bring before us before we adjourn? No. I would entertain a motion for adjourning the meeting.

Mr. Wainwright: So moved.

Mr. Siska: Second?

Mr. Tarbet: Second.

Mr. Siska: All in favor?

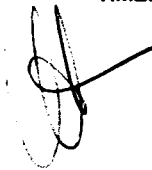
Mr. Tarbet: Aye.

Ms. Farber: Aye.

Mr. Wainwright: Aye.

Mr. Siska: All right, great, thank you all.

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: October 8, 2020
TIME: 11:30 a.m.

A handwritten signature in black ink, appearing to be a stylized 'S' or similar character, located below the filing stamp.