

Planning Board
August 12, 2021
11:00 a.m.
Emergency Services Building
One Cedar Street, East Hampton

Those present were:

Robert D. Caruso, Chairman
D. Walker Wainwright, Member
Gusty Folks, Member
David Driscoll, Member
Timothy Hill, Village Attorney
Billy Hajek, Village Planner
Jonathan Tarbet, Attorney on behalf of Stone Free Trust
Pamela J. Bennett, Village Clerk

The Chairman called the meeting to order at 11:00 a.m., and the following official business was discussed:

1. **Minutes**

Upon motion of D. Walker Wainwright, duly seconded by Gusty Folks, the Board unanimously approved the minutes of July 8, 2021.

2. **Stone Free Trust – 33 Hither Lane**

The Board is in receipt of a Subdivision Application, marked received July 7, 2021, requesting permission to subdivide a 218,600 square foot property into two conforming building parcels.

Jonathan Tarbet Esq. appeared on behalf of the applicant and stated that he represented the applicant when purchasing the property and realized that the property was subdividable. There is no intention of selling the lots but it made sense from a planning perspective to subdivide the property. The applicant is an artist, well known artist by the name of George Condo, and by creating a second lot he will be able to build an artist studio that would actually be a house. The current Village Code does not really allow him to build the artist studio he would like so if he were to create two lots, he would have an artist studio that would suit his needs. Mr. Tarbet stated

that he read Billy Hajek's memo and agrees that there should be one driveway and the applicant would like to continue to use the existing driveway but from a planning perspective, the applicant would like the driveway on the far eastern side where it is proposed. There are some topography and landscape issues where it makes more sense to have the driveway where it is proposed. There is a tree that is in the way but it makes more sense to put the driveway there and agree to plant a suitable street tree to replace it.

Mr. Tarbet continued that the applicant will require two variances. There is a cottage on the property and the proposal is to convert the cottage back to a garage as the applicant does not want to tear it down; the accessory building gross floor area is over what is permitted if the property is subdivided and would prefer to request a variance. The second variance request would be for the current pool equipment that the proposed subdivision line creates. The pool equipment could be moved to a conforming location so depending upon how the Planning Board feels, the applicant may or may not go to the Zoning Board.

Mr. Hajek gave the Board a brief summary of the report he prepared dated July 29, 2021. This is a five-acre parcel located in the R-80 zoning district and the applicant is proposing to subdivide the property into two lots, both conforming to lot area and lot width requirements. The topography on the property is generally flat and generally sloping with a little bit of a swale that runs through the lawn area or where Lot 1 is proposed. There are a number of mature street trees that exist along the road frontage of the property and it is imperative that the subdivision map show the street trees for the purpose of designing any driveways or curb cuts. The Board would be best suited to receive input from the Department of Public Works on whether or not it is better to avoid removing street trees even though the applicant is offering tree replacement. The existing residence is preexisting nonconforming in terms of its number of stories; it is a three-story residence. The existing garage has been converted into a dwelling unit so it is legally preexisting which was done by virtue of a variance and then a second variance was granted to enlarge the space but there is still a garage component to the structure. Lot 1 would contain 85,000 square feet, fronting directly on Hither Lane, and Lot 2, the rear lot, would contain 133,000 square feet via a 20-foot-wide access easement. When the Board receives the revised map, it can be referred to the Building Inspector and the Fire Marshal to ensure that the common driveway complies with the emergency

vehicle access requirements. Mr. Hajek stated that he has no objection to the general layout and it seems like a reasonable layout for the two properties. Two variances are required for existing improvements to remain so the Planning Board cannot grant approval until the applicant obtains the variances.

With reference to SEQRA, the project is an Unlisted Action so the applicant will have to submit an Environmental Assessment Form Part I and at that point the applicant can proceed with their variance request. Mr. Hajek recommended that the Planning Board assume Lead Agency status once the EAF Part I is submitted. In terms of referrals, once the driveway location is finalized and any drainage has been adjusted, Mr. Hajek recommends that the map be referred to the Village's consulting engineer for review. The project does not require referral to the Suffolk County Planning Commission or to the Town of East Hampton.

Ms. Folks suggested refining the location of the new driveway now. Mr. Hajek stated that it is hard to without showing the location of the existing street trees. Mr. Tarbet suggested just showing the one street tree where the proposed access easement is indicated. Mr. Hajek stated that it makes sense to show all the street trees because there might be changes in the future through the process. Mr. Wainwright stated that after a house is constructed and many years into the future, there may be a need to move a driveway and questioned whether it appropriate to address that now. Mr. Hajek stated that it is appropriate to address it now because if the applicant proposes to share a common driveway, that will be memorialized in an access easement which is a recorded document that is shown on the map and puts all future owners on notice that that is a specific location for the driveway and that if there is a proposed change, the applicant would have to come back to the Planning Board and ask for a modification. Mr. Wainwright asked if the proposed common driveway would replace the existing driveway. Mr. Hajek stated that that is what has to be worked out.

Mr. Tarbet stated that the applicant would like some feedback from the Planning Board about the proposed variances. If the Planning Board does not think the applicant should apply to the Zoning Board, then the applicant would come back to the Board with a map not showing the variances. Also, the common driveway is proposed on the eastern side of the property, the preferred location, but it does not matter to the applicant. With reference to locating all the street trees on the map, Mr. Hajek stated

that it makes sense to locate all the street trees on the map because the Department of Public Works and the Village Engineer might have an opinion and that he does not believe they can make a decision without having all the information. Mr. Caruso agreed. Mr. Tarbet asked about requesting variances from the Zoning Board. Mr. Hajek stated that the pool equipment would be a variance from a proposed lot line so future owners of Lot 2 would know what they are getting which does not seem like a big hurdle, and converting the garage with habitable space, which was converted to habitable space by virtue of a variance, back to a garage does not seem like a heavy lift.

Mr. Tarbet stated that he will come back to the Board with a revised survey showing the street trees as well as an Environmental Assessment Form Part I.

Upon motion of Gusty Folks, duly seconded by D. Walker Wainwright, the Board unanimously adjourned the meeting at 11:15 a.m.

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 10/15/21
TIME: 9:14 AM

Pamela J. Bennett