

Zoning Board of Appeals
November 12, 2021
11:00 a.m.
via Video-Conferencing and
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Those present were:

John L. McGuirk III, Chairman
James H. McMullan, Vice Chairman
Philip O'Connell, Member
Joseph B. Rose, Member
Carrie Doyle, Member
Andrew Baris, Alternate Member
Vincent Messina, Village Attorney
Lisa Perillo, Village Attorney
Thomas Preiato, Building Inspector
Billy Hajek, Village Planner
Leonard I. Ackerman, Attorney on behalf of 34 Darby LLC
Linda Margolin, Attorney on behalf of 34 Darby LLC
Mr. and Mrs. Howard Kurz, Applicants
Bruce Horwith, Agent on behalf of Cove Hollow Holdings, LLC and
Peconic Lane Trust, Inc.
Jonathan Tarbet, Attorney on behalf of Michael Kretchmar and
Chuck Thomas
Michael Kretchmar, Applicant
Chris Powers, Architect on behalf of Michael Kretchmar and Chuck Thomas
Jack Forst, Neighbor of Michael Kretchmar and Chuck Thomas
Jody Gambino, LTV Moderator
Pamela J. Bennett, Village Clerk

Mr. McGuirk: Good morning and welcome to the Village of East Hampton Zoning Board of Appeals' meeting for Friday, November 12, 2021.

MINUTES

Mr. McGuirk: We have the minutes from **September 24, 2021** and we have the **October 1, 2021** minutes. Do I have a motion?

Mr. McMullan: I will make a motion to approve.

16602

Mr. O'Connell: I second.

Mr. McGuirk: Thanks Philip. All in favor?

Mr. McMullan: Aye.

Mr. O'Connell: Aye.

Mr. Rose: Aye.

Ms. Doyle: Aye.

Mr. McGuirk: We have six determinations today. I don't think they are in order as per the agenda, but I am just going to read what I have here.

DETERMINATION

50 East Hollow LLC – 50 East Hollow Road – SCTM #301-8-10-42

Mr. McGuirk: In the application of 50 East Hollow LLC, 50 East Hollow Road, Suffolk County Tax Map number 301-8-10-42, to permit accessory improvements on a parcel of land without a principal residence is approved. May I have a motion?

Mr. McMullan: I make a motion.

Mr. O'Connell: Second.

Mr. McGuirk: Thank you. Pam, can you poll the Board?

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

D E T E R M I N A T I O N
Oeuvre, LLC - 9 Hither Lane – SCTM #301-4-8-4.4

Mr. McGuirk: The second determination, in the application of Oeuvre, LLC, 9 Hither Lane, Suffolk County Tax Map number 301-4-8-4.4, to relocate and make alterations to an existing residence is approved. May I have a motion?

Mr. McMullan: I make a motion.

Mr. McGuirk: Second?

Mr. Rose: Second.

Mr. McGuirk: Pam, can you please poll the Board.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

Ms. Bennett: Ms. Doyle?

16604

Ms. Doyle: Yes.

DETERMINATION

Bayberry Close Corp. – 92 Ocean Avenue – SCTM #301-13-13-20.3

Mr. McGuirk: All right, moving right along here, in the application of Bayberry Close Corp., 92 Ocean Avenue, Suffolk County Tax Map number 13-13-20.3, to construct a pergola is approved. May I have a motion?

Mr. McMullan: I make a motion.

Mr. McGuirk: Second.

Mr. O'Connell: Second.

Mr. McGuirk: Thank you. Pam, can you please poll the Board.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

16605

D E T E R M I N A T I O N
The Baldrige Revocable Trust – 15 Mill Hill Lane –
SCTM #301-8-7-33.18

Mr. McGuirk: In the application of The Baldrige Revocable Trust, 15 Mill Hill Lane, Suffolk County Tax Map number 8-7-33.18, to make alterations and construct additions to an existing residence is approved. May I have a motion?

Mr. McMullan: I make a motion.

Ms. Doyle: Second.

Mr. McGuirk: Okay Pam, can you please poll the Board.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

D E T E R M I N A T I O N
234 Cove Hollow LLC – 234 Cove Hollow Road – SCTM #301-12-3-4

Mr. McGuirk: All right, second to last, in the application of 234 Cove Hollow LLC, 234 Cove Hollow Road, Suffolk County Tax Map number 12-3-4, to legalize coverage and a patio is approved. May I have a motion?

Mr. McMullan: I make a motion

Mr. McGuirk: Second?

16606

Mr. Baris: Second.

Mr. McGuirk: Okay, Pam can you please poll the Board.

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

Ms. Bennett: Mr. Baris?

Mr. Baris: Yes.

DETERMINATION

Lisa and Gary Seff – 43 Mill Hill Lane – SCTM #301-8-7-18

Mr. McGuirk: All right, and this is the last one, in the application of Lisa and Gary Seff, 43 Mill Hill Lane, Suffolk County Tax Map number 8-7-18, to construct additions to an existing residence and to make alterations to an accessory building are approved. May I have a motion?

Mr. McMullan: I make a motion.

Mr. McGuirk: Second?

Ms. Doyle: Second.

Mr. McGuirk: Pam, can you please poll the Board.

16607

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

Mr. McMullan: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

Ms. Bennett: Mr. Baris?

Mr. Baris: Yes.

ADJOURNMENTS

23 East Dune Lane LLC – 23 East Dune Lane – SCTM #301-9-5-21.4
East Dune Lane Corp. – 27 East Dune Lane – SCTM #301-9-5-21.3

Mr. McGuirk: Okay, moving right along. We have two adjournments to December 10, 2021, 23 East Dune Lane LLC and East Dune Lane Corp. We don't need a motion or anything, Pam, right?

Ms. Bennett: No, I don't think so.

CONTINUED HEARING

34 Darby LLC – 34 Darby Lane – SCTM #301-8-12-17

Mr. McGuirk: And now we have the continued hearing for 34 Darby Lane, Mr. Ackerman?

Mr. Ackerman: Good morning. I have the letter of Bob Hefner which I think is very helpful. I would ask the Board to close the hearing and proceed to a vote.

16608

Mr. McGuirk: I think, does anybody have any comments on the Board, please?

Mr. Rose: Yes, I do. Question in terms of, at the last hearing I asked the question about the capacity to move the extension in several feet in a way that did not interfere with the lawn or anything else, it just pulled it further to the south in a way that did not disrupt the plans. Has there been any examination of that?

Mr. Ackerman: I don't have...

Ms. Margolin: I can answer that question.

Mr. Ackerman: All right, Linda, go on.

Ms. Margolin: If that were done, you wouldn't have the interior longitudinal sight lines on which the house is organized. The architect did not think that it would be an appropriate way to proceed. In other words...

Mr. Rose: Do you have a...

Ms. Margolin: No, we don't have a drawing but the architect, the other thing was that the perception of the bulk of the addition would be changed if it was not in the same plain that it currently is.

Mr. McGuirk: Anybody else have any comments on this?

Mr. McMullan: I have a question. Regarding Mr. Hefner's letter, in the last paragraph, as the applicant has presented this property as a kind of historic portion of East Hampton with the pool house and pool, would the client be willing to designate it as a historic landmark in order to preserve parts of this property and the vistas if this application was granted?

Ms. Margolin: May I speak to that?

Mr. Ackerman: Yes, go on Linda.

Ms. Margolin: The...[inaudible]...whether or not a property would be designated historic would be the decision of the Village Board, not the decision of the applicant. In addition, I have looked at the designations that the Village has done with respect to, the Village has designated historic districts and there is only one single property where the Village has designated a single property. I am not able

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to tell from that designation if it is even possible to designate only one structure on a lot and not the entire lot. You would have to speak to the Village Attorney about that. I do think Chairman McGuirk that it would be inappropriate to condition that upon the applicants.

Mr. McGuirk: I would like to hear from Vinnie.

Mr. Messina: So, first of all, Ms. Margolin is right, merely an applicant saying that they want to designate it as historic doesn't make it so, it does take the action of the Village Board. More important than that I think for the purposes of our discussion here, is that that is not a condition that the Board can impose because, again, it is not controlled solely by the applicant. It is not like saying move this three feet or something like that. They have come in for an area variance, there are criteria for that area variance, and either they have met them or they haven't but I don't believe there is any authority which would allow us to condition the grant of a variance upon the designation by the Village Board as a historic structure.

Mr. Goldstein: I know, I was...

Mr. Messina: Mr. Goldstein, please mute yourself.

Mr. McGuirk: Yes, please mute. Thank you. Any other comments from the Board?

Mr. Rose: I will just say that in the absence of any demonstration of why it is problematic to move the preponderance of the extension into a conforming location which other than just the assertion by an attorney regarding an architect's conclusion, I don't find the case compelling.

Mr. McGuirk: Okay. Jimmy? Philip?

Mr. McMullan: I don't really have an issue with this. I do have an issue kind of looking forward and seeing where this property is going later on, just concerned about how this property is going to age with all these changes that they are doing.

Mr. Messina: Mr. McMullan, if in fact, well in any proposed decision I think we can express that concern, and I will happily do that for your review.

Mr. McMullan: Great, thank you.

Ms. Bennett: Mr. Chairman, let us not forget there may be callers on the line too.

Mr. McGuirk: Okay, let us get the callers first, are there any callers on the line for this?

Mr. Gambino: Yes, let me put the first one through.

Mr. McGuirk: Good morning.

Mr. Gambino: Caller ending with 5901, you are on the line.

Mr. McGuirk: Good morning.

Mr. Gambino: You are on the line.

Mr. Minardi: Just listening, no comments.

Mr. Gambino: Okay, thank you. That is all the callers.

Mr. McGuirk: Okay, Philip? Do I have a motion to close the hearing?

Mr. McMullan: I will make that motion.

Mr. McGuirk: Do I have a second?

Ms. Doyle: Second.

Mr. McGuirk: That's it, right, Pam?

Ms. Bennett: Determination at the next meeting?

Mr. McGuirk: Thank you.

ORIGINAL HEARING

Howard and Nancy L. Kurz – 5 Jones Road – SCTM #301-12-7-4

Mr. McGuirk: So we can move onto the hearings, the first hearing of the day, Pam, can you please...

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Ms. Bennett: Sure. Application of Howard and Nancy L. Kurz, SCTM#301-12-7-4, for Variances from Chapter 278, Zoning and Chapter 163, Freshwater Wetlands, to legalize swimming pool equipment and an outdoor shower. A wetlands permit is requested in accordance with Sections 163-2 and 163-3 and variances of approximately 75 feet and 103 feet are requested from Section 278-3.A.(8) to legalize swimming pool equipment located approximately 75 feet from wetlands and an outdoor shower located approximately 47 feet from wetlands where the required setbacks are 150 feet. A 17.7-foot variance is requested from Section 278-3.A.(5)(c) to legalize swimming pool equipment located 22.3 feet from the rear yard lot line where the required setback is 40 feet. A 2.2-foot variance is requested from Section 278-3.A.(5)(b) to legalize an outdoor shower located 17.8 feet from the rear yard lot line where the required setback is 20 feet, and any other relief necessary. The subject property is 62,202 square feet in area and is located at 5 Jones Road in Residence District R-160. This project may require a wetlands permit from the New York State Department of Environmental Conservation and is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Thank you, Pam. Is the applicant or his representative here?

Mr. Kurz: We are our own representatives here.

Ms. Bennett: Mr. Kurz, I have to swear you in so please raise your right hand and state your name and address for the record.

Mr. Kurz: Howard L. Kurz, my address out there.

Ms. Bennett: That is fine.

Mr. Kurz: It is Lily Pond Lane, East Hampton, New York, 5 Jones Road.

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

Mr. Kurz: I do.

Ms. Bennett: Thank you.

Mr. Kurz: So just by way of background, we have been East Hampton Village residents for about 30 years. We bought an existing sort of turn of the century classic East Hampton cottage house which we went to great pains to keep it the

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shape that it is in, not changing any of the exterior, we actually lifted the house up so we could build a more stable concrete foundation for the house many years ago. As far as we know, with regard to the pool equipment I guess first, the swimming pool equipment had been there probably 50 plus years. We have not moved the swimming pool, to the best of my knowledge, we have not moved the pool equipment, it has always been to the east side of the pool. I noted that it said that it was moved farther east which is actually farther from the wetlands and slightly north. I have no recollection of doing that, we never filed to do that, we never hired anyone to do that, again, it is entirely possible but I certainly don't know that we have ever done that. The pool is designed to actually stay filled, like most swimming pools now, the pool is never empty it is just been with winterized and it is full of water, there is no discharge from the pool. In the 30 years we have been there, it has only been emptied once and that was to re-marble dust the pool about seven years ago. We had a drain and drywell installed to the east of the pool and when the guy actually installed it, I remember him saying this is the best place you should drain your pool if you ever drain it. It is due east of the pool, closer to the driveway, and it is actually farther from the wetlands so we were hoping that, one, given that we never drain the pool, there is an existing drywell for that that we could get the variance for that.

Mr. McGuirk: Okay, thank you. Billy, do you want to make a comment on this?

Mr. Hajek: Good morning Mr. Chairman, Members of the Board, I prepared a very brief report to the Board and suggested that there is evidence in Village files the date is not clear about the pool equipment was next to the pool house at one point in time, perhaps it was moved, I cannot say when, but it does show that it was directly next to the pool house and the Code requires a discharge device, a drainage structure so it makes sense that if you move the pool equipment either move the drywell or did not put one in so as long as they can demonstrate to the satisfaction of the Building Inspector that there is a drywell for it, that is fine. If there isn't, then I would just suggest that they install one further away from the wetlands.

Mr. Kurz: Yes, it is further away from the wetlands.

Mr. Hajek: The same recommendation exists for the outdoor shower. I think it is pretty standard construction practices to put a drywell in beneath an outdoor shower but if none exists to the satisfaction of the Building Inspector, I think it makes sense that they be required to install one simply due to its proximity to wetlands.

Mr. McGuirk: Is there any objection to that, Mr. Kurz?

Mr. Kurz: With reference to the shower, this is a brass tube with a showerhead that is appended to the pool house, it is on a flat part, it is not on a part that slopes down toward wetlands, again, it has been there for 15 years. It is out of sight, there is no soap, there is no shampoo or anything. It is not used as a shower to bath in, it is just to rinse off from the swimming pool. It is probably used four or five times a year, if that. It is built on a wooden slotted platform that drains down into a grille below it. There is no runoff for it, there is no pooling. When it rains, some of the nor'easters we have had, that gets far more runoff than you would ever from this shower. We have been very respectful of wetlands. In fact, if anything, we have never cut it back...[inaudible]...encroached on our property. As you know we have a flag lot that goes back and I understand the request but this is something that is really not much more than a hose bit except it has a wooden base side to it so I would respectfully request a variance to not have to do that if it is possible but I understand Billy's point.

Mr. McGuirk: Are there any callers on the line?

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

Mr. McGuirk: Board Members, would you like to weigh in on this? Philip?

Mr. O'Connell: I have a concern about this shower being close to the wetlands. I understand that the current owners are very respectful but once it becomes permitted without a drywell, it becomes an issue if the subsequent owners use that shower heavily so I would request that either a drywell be installed, away from the wetlands, or that the shower be moved. Since it is just a brass tube it sounds like it can be moved fairly easily. Those are my comments.

Mr. Messina: Just so I have it straight, you want to incorporate that essentially, the terms of Mr. Hajek's memo into any proposed decision, right?

Mr. O'Connell: Yes.

Mr. Rose: I concur with both those comments incorporating Billy's conditions into the determination.

Mr. McGuirk: I think the Board is going to want you to put a drywell in by the outside shower, Mr. Kurz.

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Mr. Rose: Or move the shower.

Mr. McGuirk: All right, a motion to close the hearing.

Mr. Rose: So moved.

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: Okay, thank you.

Mr. Kurz: Thank you very much.

Mr. McGuirk: So, Pam, can you please read the, we are going to read the four notices together because they are all kind of one application.

ORIGINAL HEARINGS
Cove Hollow Holdings, LLC – 3 Chauncey Close –
SCTM #301-15-6-3
Cove Hollow Holdings, LLC – 63 Cove Hollow Farm Road –
SCTM #301-15-6-4
Peconic Land Trust, Inc. – 53 Cove Hollow Farm Road –
SCTM #301-12-10-1
Peconic Land Trust, Inc. – 59 Cove Hollow Farm Road –
SCTM #301-15-6-5

Ms. Bennett: Applications of Cove Hollow Holdings, LLC, SCTM#'s 301-15-6-3 and 301-15-6-4, and Peconic Land Trust, Inc., SCTM#'s 301-12-10-1 and 301-15-6-5, for Area Variances from Chapter 278, Zoning, and a Freshwater Wetlands Permit in accordance with Chapter 163 of the Village Code for the removal of Phragmites. A variance is required from Section 278-3.A.(8) and a wetlands permit in accordance with Section 163-3 to remove Phragmites from wetlands and adjacent areas primarily by mechanical machinery, and secondarily by cutting with hand held equipment when the removal of vegetation by mechanical means is prohibited, and any other relief necessary. The subject properties are contiguous and range in size from 118,890 square feet to 103,193 square feet, are all situate in Residence District R-160, and all front on Georgica Pond. The properties are located at 3 Chauncey Close, 63 Cove Hollow Farm Road, 53 Cove Hollow Farm Road, and 59 Cove Hollow Farm Road. This project requires approval of the New

York State Department of Environmental Conservation and the East Hampton Town Trustees. The project is classified as an Unlisted Action in accordance with SEQR.

Mr. McGuirk: Thank you, Pam. Is the applicant present?

Mr. Horwith: Bruce Horwith here on behalf of the applicants, two applicants.

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

Mr. Horwith: Bruce Horwith, 16 Salt marsh Path.

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

Mr. Horwith: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead, Bruce, please.

Mr. Horwith: Good morning. This project, well I guess I should start by asking whether or not, Jody, do I need to do anything additional in terms of sharing the screen?

Mr. Gambino: No, same as before.

Mr. Horwith: Can you folks see this at this point?

Mr. McGuirk: I cannot.

Ms. Bennett: Not yet.

Mr. Gambino: Try again, it worked just earlier.

Mr. McMullan: There we go.

Mr. Horwith: That's good, now you can see it and I can't. Hold on a second. This project is to restore the shoreline of four adjoining properties by reducing an

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abundance of phragmites and other non-native invasive species, an increase in the abundance of the native vegetation. The four parcels, as you can see on the map, the four parcels are adjacent, 53, 59, and 63 are all on Cove Hollow Farm Road and then 3 Chauncey Close. The two northern properties are owned by one applicant and the two southern properties are owned by a different applicant. The project is going to be managed sort of holistically as one project, Peconic Land Trust is going to take the lead in terms of doing the management. These properties share a similar ecology and they also share similar land use history. In terms of the upland portion of it, they often contain sort of an old field mixture of pasture grasses, asters, goldenrods, and some bayberry shrubs and a few trees but then as you get landward of the water there is approximately a 50-foot-wide band of monocultural phragmites along the entire shore and that is really the area that we are going to be focusing on. This project is primarily phragmites control. The other non-native invasive that we are talking about is miscanthus or Chinese silverweed and that is more upland although, there may be one or two plants down closer to the water, they are basically upland. In terms of methodology, there has been a little bit of change. We talk about cutting the phragmites to grade repeatedly over five years but instead of using the riding mower that we had thought would be doing most of the work, we are substituting a walk-behind mower and we came to this decision after some discussions with Billy Hajek, he may want to weigh in on that in a couple of minutes. We are going to be supplementing what we can't do by machine using handheld weed trimmers, and, again, just in terms of methodology, I have not come before this Board before, I have several projects that are ongoing for phragmites control within the Village but I think I have not been before the current Board. The way we approach it is to do that first cut pretty much any time of year because you primarily just be moving the aboveground biomass, it can be done dead winter, it really doesn't matter. In terms of weakening the phragmites, you want to do the cuts during the growing season. Typically, you do the first one in early June and then July, August, and early October depending upon on how active a growing season there is. By cutting the phragmites, you are trying to weaken the plants by not allowing them to produce food and replenish their below-ground food reserves and then eventually that should weaken the plants. This is not the type of phragmites control that is ever 100 percent effective or at least rarely but you can weaken it and manage phragmites and allow the native vegetation to increase in abundance. The other advantage of cutting phragmites is that, and there is something recently done by Friends of Georgica Pond in their newsletter, it talks about the fact that phragmites is pretty good at bringing in nutrients, particularly nitrogen and phosphorus and if you continually harvest the nutrients that is being taken out of the Pond, these are excess nutrients that are in the Pond, and if you remove those phragmites from the

site, then you are essentially improving the water quality of the Pond as well. There is very little native vegetation within those phragmite stands but what is there will be protected at all times and in order to insure that there isn't bare ground to the extent that we are controlling phragmites successfully, at the end of the last treatment year, there will be a minimum of 95 percent of the treatment area will be covered with native species through either the naturally re-growing or from the seed bank or we will plant them using nursery stock. The candidate native species are ones that have been found around Georgica Pond, soft stem bulrush, tussock sedge, soft rush, some blue flag, and rose mallow. These are all native wetland plants. I think I have two or three photos showing what the area looks like, the photo that you are seeing on the left is for the junction, it shows the property boundary between 53 and 59 Cove Hollow Farm Road and this is an area where the, instead of having a sharp embankment of about five feet where the upland area just drops abruptly down to the Pond, this is an area where there is almost a tongue or a cove where there is low lying land that comes from the Pond up into the upland a little bit and this is an area that is easy to use with machinery we believe and it is pretty much just dense phragmites with an occasional plant, something like Bayberry or ground...[inaudible]...which we can mow around. And here is a shot of more typical shoreline where it shows that a steeper dropdown to the Pond. And that is pretty much it. I'm available for any questions you may have.

Mr. McGuirk: I would like to go to Billy Hajek next if we could. Billy are you with us?

Mr. Hajek: Yes, again, good morning Chairman, Members of the Board, Billy Hajek for the Village of East Hampton. I have communicated with staff of the Peconic Land Trust and with Bruce and they have agreed to use hand-held equipment and a walk-behind type mower. The Village Code allows for a multi-year phragmites removal permit without the use of heavy machinery so if they wanted to use heavy machinery, it would have to be an annual approval process and so one benefit of using a walk-behind mower while it may be a little bit more labor intensive for them, is that they can do it over the course of multiple years provided they are in compliance with the permit conditions. Secondly, when I visited the site, the shoreline, there is a pretty steep embankment along the shoreline parts that I walked and I think most of that is going to have to be done by hand regardless and the area where there is a rather large stand of phragmites is a wetland area, it is kind of a sponge and the soils are very moist and I just don't, as best I can recollect from looking at old aerials, I don't think that area was ever farmed, the wetland portion of it, so I just don't think it is appropriate to be driving

heavy machinery through that portion of the property. So unless I forgot, I have no other issues. I did distribute an email to Pam and to the Chairman and I do have some suggested conditions which are typical of projects like this; notify the Village prior to start and when they finish and submission of an annual report, and then also, just in terms of removal of other vegetation, I would ask that they be required to tag it for an inspection before it is removed because the removing of other vegetation on other projects has gotten a little out of hand, I would just leave it at that. Other stuff has been removed where it was reportedly just to be non-native.

Mr. McGuirk: Can I make a comment here, Bruce, you did say it was going to be a five-year project, this approval is valid for four years, right, Billy?

Mr. Hajek: Yes, the Code says a four-year approval process, that is what our Code says. I think the DEC issues, when they approve it, they issue a five-year permit, I think that is why it might be factored as a five-year plan but our Code says four years. So at the end of four years we can reevaluate the success of the project at that point.

Mr. Messina: And that was contained in the conditions in your email today, right, Bill?

Mr. Hajek: Yes.

Mr. McGuirk: Any Board Members have any issues?

Mr. O'Connell: I was just going to ask how the Trustees, did the Trustees weigh in on this?

Mr. Horwith: I need to get permits from the Trustees and from the State. I have given both applications. The Trustees did not have an issue when I presented it to them, but they are holding back on all decisions for the phragmites work or wetlands work until they hear from the Town or Village and the State. So, in other words they didn't seem to be opposed to any of it, in fact, they were okay with the large machinery but I agree with Billy's points and agree to use the lighter equipment.

Mr. Messina: So you are saying that they want to be the last approval in other words.

Mr. Horwith: Right.

Mr. Messina: Okay.

Mr. Horwith: But I can send copies obviously from all three agencies once I get those permits.

Mr. McGuirk: Thank you. Mr. Rose?

Mr. Rose: I have just a couple of questions, I am completely sympathetic, can you just explain, are the phragmites not native, where do the phragmites fit into in general into the natural landscape. Are they always intended to be removed and are they non-native? How do they interact with the rest with the rest of the natural vegetation? I am not sure if it is Billy or Bruce?

Mr. Horwith: Billy, do you want to take a stab or do you want me to do it?

Mr. Hajek: Go for it, Bruce.

Mr. McGuirk: The abbreviated version.

Mr. Horwith: The abbreviated version is that they are doing just, they are not doing very well in Europe where they started but they came over to the United States somewhere around in the mid-1800's as far as anybody knows. They took off in this area. Anecdotally, and also some photos show somewhere in the mid-1900's so we have areas now that are covered, areas of shoreline that are covered with a gene type of plant that never occurred here, there are no native predators of it, it is displacing our native plant biodiversity as well as impacting the flora and fauna as well. So, it is not native to our area, that is why it is being considered not natural as compared to the native vegetation that we are trying to replace it with.

Mr. Rose: Understood. Thank you. Then the other question is, I guess it is to Tom, and it just ties into, not in this case, but especially where the Peconic Land Trust as the partner or the manager, it seems like a guaranteed way to have this be done as sensitively as possible. How do we monitor, is there any monitoring or enforcement in other cases where there are natural areas that need to be addressed or environmentally sensitive things where people may not be as sensitive to the mechanics or the operations being done? Is there oversight enforcement of this stuff?

Mr. Preiato: Was that for myself or Bill, I am sorry?

Mr. Rose: For Tom I guess or Bill.

Mr. Preiato: Thank you. Well actually we work together as far as observations go. I pretty much, this is not my area of expertise although I do know the Code well, I defer to Billy in most of these instances.

Mr. Hajek: I can elaborate on Tom's point. I try to do, usually when phragmites get cut, as Bruce said, is in the summertime, the growing season or just before the growing season, so I try to remain aware and do periodic inspections throughout the Village to see if phragmites is being cut without the necessary approvals and then we also insure folks do get permits or these multi-year permits, we follow up to insure that they are in compliance with the conditions. We do have situations of folks asking for retroactive approval or corrections to where they have cut phragmites, where they didn't have prior approval. In that sense the Town Trustees, we have a pretty good relationship with the Town Trustees, and they are also, we have notified them and they have notified us of situations of phragmites cuttings where property owners don't have the requisite permits. We have some checks and balances in place but we have to be careful we don't have permission to enter property all the time not unless they have an application pending so it is more of a line of sight issue. We have to see them and witness it happening.

Mr. Rose: Thank you.

Mr. McGuirk: Okay, thanks, Billy. So do we have a motion to close this hearing?

Mr. McMullan: I make a motion.

Mr. McGuirk: How about a second?

Mr. Rose: Second.

Mr. McGuirk: Thank you. We will have a determination, Billy, do we have to wait for the Trustees and the DEC to weigh in before we get a determination.

Mr. Hajek: No.

Mr. McGuirk: All right, Pam, this is the last hearing of the day.

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ORIGINAL HEARING
Michael Kretchmar and Chuck Thomas – 35 McGuirk Street –
SCTM #301-1-1-29

Ms. Bennett: Application of Michael Kretchmar and Chuck Thomas, SCTM#301-1-1-29, for Area Variances from Chapter 278, Zoning, to make alterations to an accessory building and convert to pool house, install swimming pool equipment, and construct additions to an existing residence. Variances of 13.3 feet and 10.2 feet are required from Section 278-3.A.(5)(c) to make alterations to an accessory building, previously approved by the Zoning Board as a writer's studio, to be located 6.7 feet from the rear yard lot line and 9.8 feet from the side yard lot line where the required setbacks for a pool house are 20 feet. A 5-foot variance is requested from Section 278-3.A.(5)(c) to install swimming pool equipment 15 feet from a side yard lot line where the required setback is 20 feet. A 72 square foot variance is requested from Section 278-3.A.(13) to construct additions resulting in a residence containing 1,947 square feet of gross floor area where the maximum gross floor area is 1,875 square feet. A 62 square foot variance is requested from Section 278-3.A.(9) to permit 2,312 square feet of coverage where the maximum permitted coverage is 2,250 square feet, and any other relief necessary. The subject property is 8,753 square feet in area and is located at 35 McGuirk Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Jonathan?

Mr. McMullan: Can I just state that I am recusing myself and I believe another Member is stepping in.

Ms. Bennett: Yes, Andy Baris is going to step in.

Mr. McGuirk: Good morning, Andy. Jonathan?

Mr. Tarbet: Hi good morning, Jon Tarbet for the applicant. Can you hear me okay?

Mr. McGuirk: Very well.

Mr. Tarbet: Okay, great. So, the only thing I would correct on the notice is that, I would say mostly at a suggestion of Billy Hajek, we removed the need for a coverage variance by making the pool smaller and that survey was submitted so

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there is no longer a requested coverage variance. As far as the other three variances go, it is probably easier just to tackle them one by one and I am going to try to share my screen. Are you seeing the pool house diagram?

Mr. Messina: Yes.

Mr. Tarbet: In 1995 the then owner of the property got a variance to put a writer's studio on the property and that writer's studio was granted a variance by this Board to be essentially on the property line. That property line is a rear property line that is shared with Jack and Helene Forst who did oppose the application. The goal of this current application is to actually remove everything you see with red hatching so it would make the existing writer's studio or what we want to use it for as a pool house, it is important to note that the difference between a writer's studio and a pool house, there is no difference at this point because the writer's studio had a bathroom and the pool house will have a bathroom. So, you can continue to call it a writer's studio or a pool house, it would not change the internal layout of this building but the goal here is to do a few things. One is to make it smaller so removing all the area with the red hatching. That will mostly allow us to plant vegetation between the property line, between us and Forst, to provide more privacy for both of us. It also has a couple of effects; one is that the existing studio is legal because of the variance but it is actually with the bathroom in it, it is nonconforming so rather than being preexisting nonconforming, it is legally nonconforming in size, a pool house can only be 250 square feet so by removing that red crossed hatched area we will make the distance from the property line better, we go from one foot or less to 6.7 feet, we eliminate a nonconformity which is an accessory structure with a bathroom bigger than 250 square feet, and at Billy Hajek's suggestion, we have removed any insulation from, right now the structure has insulation and we are proposing to remove that insulation. We have the support of the three neighbors, Terry Rauch on one side, John Geehreg on the other, and across the street the neighbor also supports the application. Jack and Helene Forst have opposed the application, it is objectively sort of hard to understand why they would object to a structure being moved further from their property line, being made smaller...[inaudible]...of course the insulation leads it to things that the Code prohibits, and making it smaller. I did try to reach out to Jack and Helene, they chose not to speak to me about the application, but in reading their opposition it appears as though they think that the 1995 variance was to that owner and didn't run with the land. So, they think that the existing structure, this is just my best guess reading their letter, they would not speak to me about it, but I think what they think is that once Walter Bobby who owned the property in 1995 sold it, that it had to go back to being used only for storage and that this variance

will somehow allow it to be used for pool house or writer's studio. Of course, that is wrong, the 1995 variance runs with the land. So that is my best understanding of why they would oppose it because otherwise it doesn't make any sense. Again, we want to increase the vegetation between the property and the structure, make it smaller, increase the setback, remove the insulation so I don't really have another reason for why they would oppose it.

Mr. McGuirk: What is the height of the roof of the current structure?

Mr. Tabet: I don't have the exact number, it is less than 14 feet which is the height that is allowed for accessory structures and the proposed structure is also less than 14 feet. I know that the 1995 variance approved it around 13 feet and we're coming close to, I didn't measure the height, but if you look back at the 1995 variance which was 13 feet something and we are under 14 feet proposed.

Mr. McGuirk: My comment is in 1995 there was a much smaller house on the lot than there is now but let us keep going through the variance here.

Mr. Tabet: If there are no more questions, I will move onto the next variance. The house on the property now is conforming in size. So that was it for the requested variance for the pool house. The next requested variance, we will see if I can still share this...

Mr. Rose: Can I, before we would leave the pool house issue can I request that we get specific dimensions in terms of height.

Mr. Tabet: They are on the survey, I can pull the survey up, not the survey, we did submit plans.

Mr. Hajek: If you would like, the plans that are submitted with the application show the proposed new pool house at a height of 14 feet and the existing structure is 10 feet 9 and three-quarters.

Mr. Tabet: There is a variance in place from 1995...

Mr. Hajek: So it is about 11 feet high, existing, just under 11 feet, proposal is 14.

Mr. McGuirk: Thank you.

Mr. Tarbet: If there are no more questions on that I will move onto the next request. I am going to pull the survey for that. So I think you should be seeing the survey now. The next request is for the pool equipment which you will see is shown on the survey as 15.1 feet from the property line on the north side of the house, that is the property line that is shared with John Geehreg and he has not opposed, he actually supports the application.

Mr. McGuirk: So just stop there for a second. You have, your landscaping is in, if you look at the front, it is in the Village setback.

Mr. Tarbet: Oh, the front of the property on McGuirk Street?

Mr. McGuirk: Yes.

Mr. Tarbet: That would be prohibited. I think actually in the past we have requested permission from the highway superintendent who has given, he may not here, but in the past, he has approved vegetation in the right-of-way.

Mr. McGuirk: Thank you.

Mr. Tarbet: What is important to note on the survey is, this is actually Geehreg so the requested variance is from the Geehreg property, and I thought it would be helpful to show just how the two properties relate to each other. You will see that the Geehregs have a preexisting nonconforming pool equipment in the back, in the south corner there, our equipment is proposed as shown, again, all the affected neighbors support it, presumptively Forst would oppose it. The interesting thing to note is the conforming location for the pool equipment, would be 20 feet off the property line. The only other place we could put it would be behind the pool so it would be between us and Jack Forst. It is a conforming location but of course it has big disadvantages, one would be that it is closer to the Forst property, two, it is essentially in the middle of the property. The other advantage to where we are putting it is, so you can see that what we are doing is we are proposing to put it within a sound attenuating fence and then also the pool equipment itself has a sound deadening cover. Obviously, the homeowner of the property has the exact same concerns as neighbors. We don't want to hear this equipment or see it. Behind the pool forces, it is a small property, and putting it in a conforming location behind the pool forces us to stare at it and it makes it harder to deaden the sound. So, we think it is a win for us but also a win for the neighbors to put it where the a/c equipment is and just enclose it all in this sound deadening equipment. No one has to see it and hopefully it is the quietest location on the

property for it. The third requested variance is a small 72 square feet gross floor area variance and that variance is mostly being driven by the need or desire to redo the staircase from the first floor to the second floor. We have submitted a letter dated September 27th from the architect explaining all the reasons why the existing staircase is not compliant with New York State Code. There are a number of reasons, when the applicant bought this property, it was the original reason for why it failed the updated C.O. requirement was the staircase itself. So, with the original architectural desire being to redesign the staircase to be safer, and it is not just a New York State Building Code issue, it is just an issue of homeownership, the staircase is very steep, and it has some weird design characteristics to it that you would never put into a home today so the 72 square foot variance is driven almost entirely by the desire to re-lay out that staircase. I have asked Chris, who I believe is on the call, who is the architect, to maybe go into it a little further, Chris, are you able to jump on.

Mr. Powers: Yes, I am here, can you hear me?

Mr. Tarbet: Yes, I can hear you.

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

Mr. Powers: Christopher Powers, 35 Vista Court, Riverhead, New York.

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

Mr. Powers: I do.

Ms. Bennett: Thank you.

Mr. Powers: Hello Chairman, Board Members, thanks for seeing us today. I just wanted to extrapolate a little bit on the GFA. So like Jon was saying, the desire to move that staircase and make it code compliant really drove the addition to this house. The existing staircase was actually in the dining room which made it impossible to walk around the dining room table so we are just trying to increase the functionality of the house for the owners and after the last Zoning Board meeting, we looked possible solutions of how to reduce the GFA into compliance and from my understanding the combination of lot coverage and GFA, one of the goals is to reduce the volumetric impact of structures on properties and when we

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were looking at different solutions to reduce the GFA, all that we were finding is that it was reducing the aesthetics and proportions of the house and the functionality of the house and was not affecting, reducing any volumetric aspects of the house so that is why we determined to move forward asking for the additional GFA to have better aesthetics of the house and also functionality for the owners.

Mr. McGuirk: Thank you.

Mr. Tarbet: Just one last thing I wanted to show you was GIS picture of the house which is right here in green shows the three neighbors who adjoin the property...

Mr. Powers: Jon, we are looking at the pool house drawing.

Mr. Tarbet: I may not be able to make this work. That is pretty much the, I think those are the three variances, they are all either improvement or a relatively minor request.

Mr. McGuirk: Thank you. Billy did write a report on this. Billy, do you have any comments on your report or it is pretty self-explanatory?

Mr. Hajek: It is self-explanatory. If you have any questions for me, I am happy to answer them but I would add, as Jonathan pointed out, the one item that is not addressed in my report that they have amended since I prepared it is the elimination of insulation which makes it more conforming to the pool house requirements.

Mr. McGuirk: Okay, thank you. Are there any callers on the line?

Mr. Gambino: No, there are no callers on the line.

Mr. McGuirk: So, Jimmy, you are not on this so would somebody like to go through the variances here with us on the Board. Philip?

Mr. Rose: I have some questions.

Mr. McGuirk: Go ahead Joe.

Mr. Rose: I just want to make sure I understand. The proposal involves, and I know it is not the subject of the application, but is moving the driveway from one

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side of the property to the other is part of the whole work on the site, is that correct?

Mr. Tarbet: I was pulling the survey up, I am not sure if you can see it, that is the survey and the new proposed driveway would be as shown.

Ms. Bennett: Mr. Chairman, one caller just called in, Jody let me know.

Mr. McGuirk: Can we let the caller on, please.

Mr. Gambino: Sure. Caller ending with 0867, you are on.

Mr. McGuirk: Good morning, please state your name.

Mr. Forst: Good morning, hi, my name is Jack Forst, I live next door to the property that is looking for a variance.

Ms. Bennett: I have to swear you in. Please raise your right hand and state your name and address for the record.

Mr. Forst: My name is John Forst, I live at 176 Newtown Lane, East Hampton, New York.

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

Mr. Forst: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead, Jack.

Mr. Forst: Okay, I would like to start off by saying I have been designing and building houses in the Town of East Hampton for over 40 years. I have always designed based on zoning regulations and in my opinion the reason why we do have zoning regulations is because we need to protect the surrounding properties from encroachments of neighbors onto it. I would like to first say that part of what Jon is saying like this is a minor variance. I mean it is supposed to be 20 feet off the rear property line and it is only going to be six. There is no doubt it is an improvement from what it was but it is still, it is the noise issue that I have with

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this. I don't have an issue with anything other than noise but I also want to point out is that the application is saying that there is no other way of doing this and that is incorrect. I mean if you look at the survey and look at the setbacks, you can easily design a pool and if you want to jam a pool house onto an 8,700 square foot lot, you can jam a pool house on it and still conform to zoning. I also would like to point out that in the variance that was granted back in 1995, it states specifically that the variances are granted on the express condition that this should be used as a writer's studio only. It doesn't say that the writer's studio can become a pool house, it is a writer's studio, it is a quiet application. A shed is a quiet application. We already know how this building was used in the past because we have pictures from the original on this was submitted and then it was pulled out as far as how it was being used; it had a bed in it, it had coffee makers in it, and other things so why should I believe it is going to be used any differently than that at this point. I also have a concern we are saying that we have a building that is six feet off, it is supposed to 20 feet off. Is there going to be any mechanics in this building and where are they going to be located and what is going to be doing anything to cut down on the noise on that? It is all a noise issue. Those are my concerns, and, again, I am sorry that I have to be this way but you know what, I have protect my property also, I really feel that a lot of 8,700 square feet, if you want to jam all this on it, jam it on within the zone, don't jam it on my property line. Also, I want to point out that the trees that are shown on the rear, they are called out to be between nine and ten feet, they are showing them to be somewhere around 16 to 18 feet, there is really no privacy issue between the two, there is just a major noise issue between the two. I don't have any other comments unless anybody has any other questions.

Mr. McGuirk: I think we are good.

Mr. Tarbet: Can I just address that very quickly.

Mr. McGuirk: You are addressing us, not...

Mr. Tarbet: Yes, addressing you, that issue I meant, sorry. I think there is a misunderstanding here, we are not asking to put a new structure on the property. We are asking to relocate the existing structure further from Jack's property line. With regard to it being approved originally as a writer's studio, it was approved in 1995 with a bathroom in it so honestly the true use of it will be as a pool house but we are not asking to install, for example, a bathroom in this structure. So you could call it a writer's studio still, it would not matter to us, I think if we were taking a structure that was called a writer's studio without a bathroom and asking

to convert it to a pool house and adding a bathroom, then that would be a very valid concern, however, the structure can be rebuilt under the, at least the new Village Code, without any variances so it is hard to fathom how making it smaller, removing insulation, moving it farther from the property line, and adding vegetation doesn't improve the situation. That is all I have to add.

Mr. McGuirk: Board Members, Carrie, Andy, any comments?

Mr. O'Connell: I have a question. So, when you say it can be rebuilt under the current Code, maybe Mr. Messina you can weigh in on this also, it would be at the same height, same openings, same windows, same orientation, not additional sliding glass doors and at a higher, it would have to be replicated, correct?

Mr. Messina: Go ahead, Jon.

Mr. Tarbet: So, I think it is possible that Vinnie and I may disagree on some of that but I think part of it we definitely agree on. This is not a nonconforming structure, it is actually a structure that it is legally by virtue of a 1995 variance. So, the part that we probably disagree on is that I think that once the variance is granted, it is a legal structure and the new setback is at one foot and then we could, I think we could actually rebuild it as long as we comply with all current zoning without any variances including increasing it to 14 feet in height. The part that I think Vinnie and I probably agree on is that there was a recent code change for the Village which applies to nonconforming structures, again, we are actually conforming by virtue of a variance but assuming that we are considered by the Village to be a nonconforming structure, the Village Code made it very clear that these can be rebuilt in their entirety so long as you do not increase the degree of nonconformity. And so, for example, I think part of your question was, was windows and doors, those could all be rebuilt however you wish under the recently passed Village Code amendment. Where I think we would run into a problem would be under, what I think is Vinnie's definition, which is that it is still a nonconforming building and therefore to increase the height you would need a variance. So, it is possible under Vinnie's definition that what we need here is a height variance as well as the variances to make it more conforming which I guess actually under the new Village Code definitions, the fact that we are making all these other things more conforming, shouldn't need a variance. So it gets a little confusing, maybe Vinnie can correct me.

Mr. Messina: I mean actually it is Tom's determination in the first instance that matters because your permit application would go to him. I do agree that once you

have gotten a variance and you build in accordance with that variance, you are not nonconforming. Whether or not that in essence sets a de facto right to do anything under any circumstance, you are right, we probably disagree significantly on that but if you would need, as to the requirement for a variance for height or anything else, I would have to defer to Tom in the first instance because he is building official for the Village.

Mr. McGuirk: So I am going to jump in here. I do not have any problems with 72 square feet, I have no issues with the swimming pool equipment 15 feet from the property line, I don't want to see the pool house or the writer's studio touched. I don't think we would, this is a small lot, it contains a lot of stuff, I personally don't want you to touch the writer's studio.

Mr. O'Connell: I concur with the Chairman. I believe that the request for the change to the writer's studio is substantial even though there is some improvement and based on it being a substantial variance, I think that the writer's studio should be left as is and I agree with regard to the pool equipment and the 72 square foot variance.

Mr. Rose: Mr. Chair?

Mr. McGuirk: Yes, Mr. Rose?

Mr. Rose: I just have a couple of questions, and as Members of the Board will know, I take the setback issues pretty seriously especially on a small lot that is adjacent to many other small lots. A reference was made to support of the neighbors for the majority of the variances being sought, is there public record to that effect, Mr. Tarbet?

Mr. Tarbet: Yes, so just quickly there is. The three neighbors, there are three adjacent neighbors, Jack Forst who spoke is opposed, he is directly behind the property. The adjacent side yard neighbors both support the application, they submitted letters as well as the house directly across the street submitted a letter in support of the application.

Mr. Rose: Thank you. And then the question on the pool equipment, was there any exploration or any issue relating to the possibility of burying the pool equipment putting it in a pit for noise purposes?

Mr. Tarbet: We did spend a lot of time trying to figure out how to best again because, potentially Chris may want to speak on this, we did have a few meetings on it and that is how we came up with the fence around both that and the a/c equipment that has a sound baffling curtain on it and that is also how we came up with, you can actually buy an insulated enclosure for pool equipment now to reduce noise. We proposed both those on our plans. I think burying pool equipment comes with a few issues, one is just the release of natural gases from the heater as well as servicing. I know it can be difficult in that area, which is a tight area, to get in and service it. Chris, did I phrase that correctly?

Mr. Powers: Yes, that sounds right, I can't personally speak on the added sound deadening of burying it versus the enclosure and the kind of the quick enclosure and then the sound deadening blankets, I couldn't attest to the difference in them.

Mr. Tarbet: We were worried about the vibration and bounce-off structures so if we bury it, so I guess the short answer is, we really did try to present it in a way that would benefit us the most but also make it the most appealing to the Board and for reasons, which either we are articulating or we are not, we came up with this as the best solution.

Mr. McGuirk: Thank you.

Mr. Baris: I have a question.

Mr. McGuirk: Go ahead, Andy.

Mr. Baris: What about mechanicals to the structure and Jon can you talk about, you said you were going to be removing insulation, could you talk about specifically what you are going to be doing.

Mr. Tarbet: Chris, I will give you a second to talk about mechanicals. As the Board is probably aware, this application had come before you, maybe four or five months ago, somewhat differently, and when I took it on as a project, we spent, like we always do, a lot of time redesigning what we wanted and trying to eliminate any extra. So that is how we ended up coming up with the fact that right now the structure is one foot from the property line, we want to make it almost seven feet, that is how we, the way I came up with, which I thought was a huge benefit, although hearing the two Board Members disagree at least, was that a pool house, so this structure exists legally with a bathroom in it, and because of that, it most closely is defined as a pool house under the Village Code because only a pool

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house can have a bathroom. Pool houses are limited to 250 square feet so one of the initial things I did, and I also thought this would address some of Jack's concerns, was to make it smaller, that was this diagram showing how we are essentially just eliminating a back portion of the, for the life of me I cannot understand how anybody would object to eliminating a structure. So, the goal was to bring it back down under 250 square feet, which is the size in the Village you can have a pool house which is a structure with a bathroom as long as it is less than 250 square feet, and that is how we came up with that. The part specifically you asked about insulation, I had not thought of that, if you go on line now on the internet, when this house was sold to my clients, you can still see the listings, it called that a cottage. Who knows why, maybe the brokers thought it was, my clients certainly believed it was, their closing attorney who was not me, never told them otherwise. They actually would have found out on the updated C.O. process except for the fact that the updated C.O. was denied for the staircase inside the house so they held a very small escrow and thought they would be able to get the C.O. by addressing the staircase issue. As they have now since come to find out, it is not a cottage but because of Jack's concerns, which is that it would be lived in and I think Billy Hajek had the same concerns, he suggested that because the existing structure has insulation, it leads itself to being used certainly more as a cottage than as an open air pool house which is what the current owners want to use it as. So, it was Billy's suggestion that removing the insulation would make this again a better application and we were happy to do that because, again, the current owners have no intention to use it illegally to the extent that it was set up as a cottage that was because that is how the brokers presented it and no one told them otherwise.

Mr. McGuirk: So, Andy, what is your feeling on this?

Mr. Baris: I don't really have a problem with, it is an already erected structure, they are making it smaller so as far as I am concerned, I don't really have a problem with it.

Mr. McGuirk: Carrie?

Ms. Doyle: I have a question for you, Mr. Chairman, why are you opposed to removing the back part of that cottage that they are suggesting?

Mr. McGuirk: I just think that this cottage sits back on that property, it is pretty low, it was an old garage at one time. The house that sat on the property was small, these are tiny lots, there is a lot going on on this little piece of property to be

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quite honest with you. When you take the mass and you make it higher, three more feet, it is going to be pretty noticeable especially to the back neighbor and the back neighbor is worried about noise so that is my reason on it. I would like to give everybody everything but it is a tiny piece of property.

Ms. Doyle: Just as I understand, I want to be clear, the proposal is to take off that back part and raise the roof three feet and without insulation.

Mr. McGuirk: I think they are going to rebuild it, it will be a brand-new structure.

Mr. Tabet: I think when you start to remove insulation, it is definitely proposed as a new structure. It is worth looking at, maybe you should look at, let me just pull this up quickly. Because the height has always been proposed as a conforming-to-code height, I didn't anticipate that that would be an objection but it is worth, just give me one second, here we go, I pulled up the pool house by itself, here we go, this is pretty helpful, I think this is existing pool house right here or writer's studio, and proposed is, you can see it has a real sloped roof so the high point will be 14 feet, most of it will be significantly lower than 14 feet, and it arranged so that the roofline, of course it is not visible from Jack Forst's property, but it does slope in the direction you would hope for if that were the case.

Mr. McGuirk: I don't know if there is any more to hear on this, Joe, I don't know where you stand so we will close the hearing and we will take it to a vote.

Mr. Tabet: I have heard some support and some opposition, it is possible we can work on, it sounds as though the Board might have no objections to two out of three requested variances, I am not really sure where the Board lies on the pool house but I have heard some comments that we could take into consideration to try to redesign it. I would ask that you leave it open for that reason.

Mr. McGuirk: I think we have heard this, we have seen this application twice now, we saw it previously before you, I think we should close the hearing.

Mr. Tabet: So you are going to refuse my request to leave the hearing open to redesign the pool house?

Mr. McGuirk: I might, yes.

Mr. Tabet: Okay.

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Mr. McGuirk: I have to get a motion. So do we have a motion to close the hearing? (no motion was made) Okay, so we are going to keep the hearing open. Jonathan, we are going to keep the hearing open.

Mr. Tarbet: Okay, great.

Mr. McGuirk: All right so we will wait for you to come back next time.

Mr. Tarbet: We will speak to the applicant and see if there is anything we can do. I believe the objection was the height of the roof if anybody wants any other feedback, I am happy to take it into consideration as well.

Mr. Powers: If I could speak on that, I would like to real quick. So the height of the roof, basically it just generated aesthetically trying to match the slope of the house. Another big issue was the existing pool house had a very low slope and because the large bamboo wall that is on the property line on the neighbor's yard, the clients were getting a lot of mold growth on the roof which is deteriorating it. A lot of times during the snow and the rain, the bamboo is actually laying on the pool house so obviously increasing the slope was one way to prevent that growth and deterioration of the roof. I do not think the client would be hesitant to bring the slope down of the roof of the proposed design if that is what the Board is looking for.

Mr. McGuirk: And can you show a comparison of the old and the new when you come back?

Mr. Powers: Sure. Jon, can you un-share your screen, please.

Mr. Tarbet: Yes.

Mr. Powers: So here is actually this is the proposed design and here is the existing. So, the one thing you can actually notice is that this ridge here on the property line, this is actually about 13 feet tall here, right on the property line, and because we switched the slope of the roof, this wall that faces the property line is actually about nine feet, so the actual wall that is next to the property line slope is lower than it is sloped up away from the property line.

Mr. O'Connell: I thought the height was 11 feet.

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Mr. Powers: Excuse me, 11, did I say 13, sorry, 11. My apologies, not 13 feet, 11 feet.

Mr. O'Connell: And I do notice with the redesign, it pushes a set of, I am assuming it is sliding glass doors towards the interior of the yard and not towards the house, that second set, if you are looking at the house to the right which also created additional noise to the neighbor in the back which seems to be their main concern.

Mr. Powers: So, this is the existing, they have sliding doors here which is the north, actually these doors are facing north and so we have these doors here, they are also facing north and there is another set that is then facing the house. So we are not increasing openings.

Mr. McGuirk: What about walkways and patios? Is that all you are going to have?

Mr. Powers: Yes, it is just going to be, yes, just grass. There may be some, actually the landscape I believe he designed some gravel walkways around.

Mr. McGuirk: Outside shower?

Mr. Powers: Yes, there is an outside, unenclosed outdoor shower that will go on this side.

Mr. Rose: Wait, the side that is in the setback?

Mr. Powers: Here?

Mr. Tarbet: That is also in the setback, correct.

Mr. Messina: And Chairman, correct me if I am wrong, but I think what you are asking for is a side by side, right, to show what the proposed one is compared to the existing in terms of height.

Mr. Tarbet: One more element which is that the 1995 variance granted a 12-foot height.

Mr. Messina: Okay, but that is not what is there. Again, what the Chairman was asking for is show us what is there and show us what is proposed and let us take a look, side by side, to see and we will judge what the impact is, if any.

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Mr. Kretchmar: Excuse me, this is Michael Kretchmar, may I answer that.

Mr. McGuirk: You have to be sworn in please, Michael.

Mr. Kretchmar: Okay, thanks.

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

Mr. Kretchmar: Michael Kretchmar, 35 McGuirk Street, East Hampton.

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

Mr. Kretchmar: Yes, I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead, Mr. Kretchmar.

Mr. Kretchmar: Thank you Chairman and Members of the Board, I wanted to point out two things and one I am asking, Chris, perhaps you can show the location of the current shower and then the Board will see that that is right on the property line facing the Forst property and the proposed new shower location would be not on their property line. The second thing I wanted to point out, and maybe Chris you can highlight this as well, is that the existing cottage has a window on the property line that faces the Forsts. I don't think they hear any noise coming out of that but one could argue that it is a passage for noise. That window goes away so that makes the noise associated with their property line drop significantly.

Mr. Messina: That window may go away because you are taking off that part of the house so are you saying you would be willing to covenant that there would be no windows on that side at all?

Mr. Kretchmar: Yes, absolutely, 100 percent.

Mr. Messina: Thank you.

Mr. Rose: A quick question just in reference to that, was that outdoor shower that exists, is that part of the approved original variance from '95.

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Mr. Tarbet: I actually have that variance up. It doesn't look like it was on the plans, who knows if it was built or when it was built.

Mr. Rose: Thank you for pointing that out it exists obviously I didn't go see that shower back there.

Mr. Tarbet: The only other thing I was thinking of which may help get a handle on the application was if we could come back to you and show, it occurs to me now that we are changing the pitch of the roofline so that right now, it would be beneficial to the neighbor, to Jack Forst in the back, because we are going to recede away from him as opposed to having the current roofline, I don't have the drawings in front of me to prove this but we probably have less cubic footage of roofline by what we are proposing to do versus within six feet.

Mr. Kretchmar: If I could just reiterate as Chris pointed out the high point of the roof that touches the property line today is 11 feet. What we are proposing is the roofline on the property line will be nine feet and there will be no window and there will be no shower on that side of the property.

Mr. Tarbet: That is a good point, Michael, is that the peak of the roof, while we are proposing to move the structure 6.7 feet from the property line that peak is what maybe 11 or 12 feet from the property line as opposed to right now it is less than a foot right now. Right now, there is a nine-foot roof less than one foot from the property line. We are proposing a 14-foot roof somewhere around 12 or 13 feet from the property line out further. We can come back with a study on that to show you how much better it is getting.

Mr. McGuirk: Okay, so let us, I think we should keep this hearing open obviously until next month, if you need more time, let us know. Any other business before the Board? A motion to close the meeting?

Mr. Baris: Motion to close.

Mr. McGuirk: Second please.

Mr. Rose: Second.

Mr. McGuirk: All in favor?

Mr. O'Connell: Aye.

Mr. Rose: Aye.

Ms. Doyle: Aye.

Mr. Baris: Aye.

Mr. McGuirk: Thank you all.

Mr. Tarbet: Thank you.

The meeting was adjourned at 12:26 p.m.

continued on next page

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NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Incorporated Village of East Hampton will hold a public meeting at the Emergency Services Building, One Cedar Street, East Hampton, New York, on Friday, November 12, 2021 at 11:00 a.m., or via video-conferencing if necessary, on the following applications and to conduct such other business as may come before the Board. 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.

Applications of Cove Hollow Holdings, LLC, SCTM#'s 301-15-6-3 and 301-15-6-4, and Peconic Land Trust, Inc., SCTM#'s 301-12-10-1 and 301-15-6-5, for Area Variances from Chapter 278, Zoning, and a Freshwater Wetlands Permit in accordance with Chapter 163 of the Village Code for the removal of Phragmites. A variance is required from Section 278-3.A.(8) and a wetlands permit in accordance with Section 163-3 to remove Phragmites from wetlands and adjacent areas primarily by mechanical machinery, and secondarily by cutting with hand held equipment when the removal of vegetation by mechanical means is prohibited, and any other relief necessary. The subject properties are contiguous and range in size from 118,890 square feet to 103,193 square feet, are all situate in Residence District R-160, and all

front on Georgica Pond. The properties are located at 3 Chauncey Close, 63 Cove Hollow Farm Road, 53 Cove Hollow Farm Road, and 59 Cove Hollow Farm Road. This project requires approval of the New York State Department of Environmental Conservation and the East Hampton Town Trustees. The project is classified as an Unlisted Action in accordance with SEQR.

Applications of 23 East Dune Lane LLC and East Dune Lane Corp., SCTM#'s 301-9-5-21.4 and 301-9-5-21.3, for Area Variances from Chapter 278, Zoning, to construct a swimming pool. Two (2) variances of 20 feet are required from Section 278-3.A.(5)(c) to construct a swimming pool that will overlap the common lot line between the two properties and will have a zero setback to the side yard lot lines where the required side yard setbacks for a swimming pool are 20 feet, and any other relief necessary. The subject properties are 66,473 square feet and 59,073 square feet and are located at 23 and 27 East Dune Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application of Michael Kretchmar and Chuck Thomas, SCTM#301-1-1-29, for Area Variances from Chapter 278, Zoning, to make alterations to an accessory building and convert to pool house, install swimming pool equipment, and construct additions to an existing residence. Variances of 13.3 feet and 10.2 feet are required from Section 278-3.A.(5)(c) to make alterations to an accessory building, previously

approved by the Zoning Board as a writer's studio, to be located 6.7 feet from the rear yard lot line and 9.8 feet from the side yard lot line where the required setbacks for a pool house are 20 feet. A 5-foot variance is requested from Section 278-3.A.(5)(c) to install swimming pool equipment 15 feet from a side yard lot line where the required setback is 20 feet. A 72 square foot variance is requested from Section 278-3.A.(13) to construct additions resulting in a residence containing 1,947 square feet of gross floor area where the maximum gross floor area is 1,875 square feet. A 62 square foot variance is requested from Section 278-3.A.(9) to permit 2,312 square feet of coverage where the maximum permitted coverage is 2,250 square feet, and any other relief necessary. The subject property is 8,753 square feet in area and is located at 35 McGuirk Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Said Zoning Board of Appeals will at said time and place hear all persons who wish to be heard in connection with the applications. Interested parties may be heard in person, by agent, or by attorney. Dated: October 22, 2021
By Order of John L. McGuirk III, Chairman
Zoning Board of Appeals
Inc. Village of East Hampton
16-2

FILED
VILLAGE OF EAST HAMPTON, NY

DATE: 12/10/21

TIME: 12:50 pm

Pamela J Bennett

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