

Zoning Board of Appeals
March 11, 2022
11:00 a.m.
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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
David Harvey, Architect on behalf of House on the Pond, Inc.
Dawn Harvey, Architect on behalf of House on the Pond, Inc.
Susan Brierley, Land Planner on behalf of House on the Pond, Inc.
Bruce Horwith, Agent on behalf of Kooh, LLC
Andrew Goldstein, Attorney on behalf of 12 West Dune Lane LLC
Steven Sanabria, Architect on behalf of 12 West Dune Lane LLC
Jonathan Tarbet, Attorney on behalf of Acacia Greene LLC and
Quercus27east LLC
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, March 11th. And just first, maybe a little housekeeping, we are receiving items way past the due dates. I think it is, Pam, what is our procedure?

Ms. Bennett: Like Wednesday of last week is when we need the material.

Mr. McGuirk: We really need the material, we know we are all busy, we know you are all busy but we need the material prior to two or three days before the meetings. We also have other lives that we lead here too so I don't think it is fair

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to the Board that we get this two or three days before. Chime in any Board Members.

Mr. Rose: Just a question are we referring to formal submissions or testimony?

Mr. McGuirk: Both.

Ms. Duffey: I agree, I think it is in the best interest of the applicants to get the information so that we have time to visit and review otherwise it is last minute, we are getting things last night, I don't think it is appropriate or in the applicant's best interest.

Mr. Messina: I mean look, just to be fair, the applicant can always present anything they want at the hearing so at least this is a little in advance but your warning, applicants' attorneys should take heed of the warning because if they want their decision not to be delayed, the further in advance they can provide it to you, the further in advance you can meaningfully examine it and think about it and deliberate about it.

Mr. Rose: And also, to follow up on that point, the public which will be commenting on submissions needs to have the opportunity to see the material that is being submitted so it is not all going to be done one session. We will have no option but to hold the hearings open if we don't get the material in a timely manner.

Mr. Messina: Thereby delaying any decision by another 30 days.

Mr. McGuirk: And then my last thing is, it will keep Pam, let us keep Pam happy too which is the most important.

Ms. Bennett: Well, I do need to get the bigger plans scanned and scanning takes time.

Minutes

Mr. McGuirk: Let us move onto the agenda here. So we have the minutes of February 11, 2022, do I have a motion?

Mr. Rose: So moved.

16762

Mr. McGuirk: Second?

Mr. McMullan: Second.

Mr. McGuirk: All in favor?

Ms. Duffey: Aye.

Mr. O'Connell: Aye.

Mr. McMullan: Aye.

DETERMINATION

Behind the Pond, LLC – 50 Highway Behind the Pond – SCTM #301-9-4-16.1

Mr. McGuirk: So we have, did I lose it already, sorry guys, Pam I can't find my determinations...

Ms. Bennett: Do you want me to read it for you?

Mr. McGuirk: Please, I just had it here a minute ago. Go ahead and I will look for them while you read.

Ms. Bennett: Okay, in the application of Behind the Pond, LLC, 50 Highway Behind the Pond, Suffolk County Tax Map number 9-4-16.1, to make alterations to a preexisting nonconforming second residential use is approved.

Mr. Rose: Question, I see it appears twice on our agenda, is that just a reprint?

Ms. Bennett: Yes.

Mr. Rose: Okay, thanks.

Mr. McGuirk: Can I have a motion?

Mr. Rose: So moved. Happy to see the changes, adjustments were made.

Mr. McGuirk: Can I get a second, please.

Mr. O'Connell: I will second.

16763

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?

Ms. Doyle: Yes.

DETERMINATION

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

Mr. McGuirk: Pam, I found my, in the application of Michael Kretchmar and Chuck Thomas, 35 McGuirk Street, Suffolk County Tax Map number 1-1-29, to make alterations to an accessory building and convert to pool house, install swimming pool equipment, and construct additions to an existing residence is approved. May I have a motion?

Ms. Doyle: I will make a motion.

Mr. McGuirk: Okay, can I have a second?

Mr. Baris: Second.

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

16764

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. O'Connell?

Mr. O'Connell: No.

Ms. Bennett: Mr. Rose?

Mr. Rose: Yes.

Ms. Bennett: Ms. Doyle?

Ms. Doyle: Yes.

Ms. Bennett: Mr. Baris?

Mr. Baris: Yes.

DETERMINATION

Michael and Christine Aaron re 17 Toilsome Lane – SCTM #301-2-3-2

Mr. McGuirk: Onto the third determination here. In the application of Michael and Christine Aaron re property located at 17 Toilsome Lane, Suffolk County Tax Map number 2-3-2 for an appeal is denied. May I have a motion?

Mr. McMullan: I make a motion.

Mr. McGuirk: Second please?

Mr. O'Connell: Second.

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

Ms. Bennett: Mr. McGuirk?

Mr. McGuirk: Yes.

Ms. Bennett: Mr. McMullan?

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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.

DETERMINATION

Orion Properties, LLC – 40 Further Lane – SCTM #301-9-6-10.3

Mr. McGuirk: Okay, the last determination of the day, in the application of Orion Properties, LLC, 40 Further Lane, Suffolk County Tax Map number 9-6-10.3, to legalize A/C condenser units and a BBQ grill is approved. May I have a motion?

Mr. McMullan: I make a motion.

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?

Ms. Doyle: Yes.

CONTINUED HEARING

House on the Pond, Inc. – 10 Lockwood Lane – SCTM #301-13-10-15

Mr. McGuirk: All right, now we are going to move onto our continued hearings. Dawn, House on the Pond, Inc., 10 Lockwood Lane.

Ms. Bennett: And let me tell you who is sitting on the application. So we have Mr. McGuirk, Mr. McMullan, Mr. O'Connell, Mr. Rose, Ms. Doyle.

Mr. McGuirk: Dawn and Dave?

Ms. Harvey: Yes, good morning.

Mr. Harvey: Yes, good morning, Dave Harvey, D & D Harvey Architects and Dawn Harvey, 21 Cove Road, Sag Harbor.

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

Mr. Harvey: Yes.

Ms. Harvey: We do.

Ms. Bennett: Thank you.

Mr. Harvey: Okay, so Dawn is going to pull up a drawing that is easiest to discuss. So, we listened to the Board's concerns from last month and went back to the drawing Board and what you can see from the drawing on the screen, does everybody have that, we have reduced the size of the house so it no longer needs a square footage GFA variance. You can see that in the bubble here. So we are allowed 5,381 square feet and we are down to 5,377.64. So we no longer need the GFA variance. In doing that, it has also pulled the house back that you can see on the site plan from the front yard setback, it pulled the garage back quite a bit. So now the binding corner is the porch to the far right so the front yard relief needs to

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be 35.5 feet instead of the prescribed front yard setbacks so we have improved that. The third big issue is the height. So, we have taken three feet off the height of the entire building so between the height decrease and the volume decrease, you can see from the dotted lines, we substantially reduced the massing of the house and we now are asking for the 35 feet 4 inch to the peak...

Ms. Harvey: From the existing.

Mr. Harvey: Which, as you know, it is supposed to be 34 feet, but what we are asking you to consider is that with the FEMA restrictions and the lifting of the house and the two feet of freeboard that the State kind of mandates from the FEMA zone, we are now asking for a 1 foot 4-inch relief, and you can see that that only occurs along the ridge of the main house. So, it represents less than 8 percent of the second-floor area that is beyond the height limit. So it is just the very peak. Then if you take into account that the finished grade will actually be elevation 10 and not the existing 7, that is due to the septic system and the minimum clearances we need to cover those in the front yard.

Ms. Harvey: We also put in, we added the Trustees had a chance to look at the property and now the setback is going to be 30 feet and there is a...

Mr. Harvey: The planting buffer.

Ms. Harvey: The planting plan here.

Mr. Harvey: So I think originally, they had mentioned 10 feet, we have upped that to 30 feet and we have proposed a re-veg plan for that.

Ms. Harvey: And Susan Brierley I think is around if you have any specific questions about the landscape plan.

Mr. O'Connell: I just had a quick question. So you have incorporated all the Trustees' requests.

Ms. Harvey: Correct.

Mr. O'Connell: Into what you are asking for at this point.

Ms. Harvey: Yes.

Mr. McMullan: Does that include the no irrigation installed within 125 feet of the wetlands?

Ms. Harvey: I think maybe Susan she can answer that.

Ms. Brierley: Yes.

Mr. Harvey: Yes, we agree to that for sure.

Ms. Brierley: Yes, I had a conversation with Jim Grimes.

Ms. Bennett: Susan?

Ms. Brierley: Do you want to swear me in?

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

Ms. Brierley: Susan Brierley from Due East Planning, 2 Van Scoys Path, East Hampton.

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

Ms. Brierley: I do.

Ms. Bennett: Thank you.

Ms. Brierley: So, after our last meeting which I have served I went and spoke to Jim Grimes who brought this to the Trustee meeting the following Monday, and basically all they want is this 30-foot buffer and I spoke to Bill Hajek as well so we are going to work with him on refining the planting list, maintaining the 30-foot buffer, and I do believe there will be no permanent irrigation, we may need temporary but we will work out those details with the Trustees and Bill.

Mr. McGuirk: Billy, you will work that out with Susan because some of the plants that were in this buffer were not native plants.

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Ms. Brierley: No, they are native, they are just not appropriate in their location to the water, we need to shift some things around and introduce a different species upland I believe is the issue.

Mr. McGuirk: Okay.

Mr. Hajek: Yes, I am happy to work with the applicant's representatives to refine the actual plant list but following the same pallet of grasses and shrubs on the periphery.

Mr. McMullan: I would just like to say thank you to D and D Harvey for kind of listening to the Board and making adjustments. I think you guys did a nice job and I don't have a problem with the application now.

Ms. Harvey: Thank you.

Mr. McGuirk: Joe, any comment?

Mr. Rose: Yes, picking up on the comments, so I agree with Jim McMullan's comment that I think the adjustments that have been made are important and there is a compelling case on the grounds of the FEMA requirements in order to do the marginal incremental height variance. On the landscaping front, I want to underscore the point Bill was making that the Trustees made about the no permanent irrigation within the 125-foot area and just to urge that it be a condition of the approval. And also, this is a question about the landscape, the nature of the, because there is also a no fertilizer requirement pursuant to the Code requirements, what is the nature of the lawn planting. In the last month I have come up a little bit of the learning curve in terms of which kinds of lawn grass do not require the degree of fertilization and irrigation that sometimes contribute to the problems. I am just wondering at this point if you have an understanding of what the program for the upland, the non-30-foot buffer, 125 foot non permanently irrigated lawn treatment will be.

Ms. Brierley: We haven't taken it to that step but we will work it in the landscape in order to make sure we comply.

Mr. Rose: Great.

Mr. Harvey: I have just a quick question. So, it is an existing lawn now I understand we have no irrigation, do we actually have to replace the grass, I don't mind if we do, is that the gist of it?

Ms. Brierley: So, where we are removing the house and the septic system, we are going to have to pay attention to that carefully so that something will grow there because sometimes the soil isn't suitable once the house and the septic system have been there and leaching for a while which is why we will bring in professional landscapers to assess the soil and see what is appropriate to plant in that area.

Mr. Harvey: Thank you.

Mr. McGuirk: Thank you.

Mr. O'Connell: I just have a procedural question so we will keep the hearing open until we see the final plan next month, John?

Mr. McGuirk: I am just curious Phil, what is the final plan?

Mr. O'Connell: Just procedurally are we keeping the hearing open until next month or can we close the hearing now?

Mr. McGuirk: I think we can close the hearing now; I think Billy is going to meet with them, we have done this before.

Mr. Hajek: You can make the, you could write the decision, if the Board is inclined to approve it, the decision could be conditioned that they amend their buffer plan to the satisfactory of the Village Planner, we have done that before.

Mr. McGuirk: Several times.

Mr. Rose: If we incorporate the recommendations of the Trustees and the other items in, we should be able to close the hearing I would imagine.

Mr. McGuirk: I think so.

Mr. O'Connell: Okay.

Mr. McMullan: I am good with that.

Mr. McGuirk: So can I have a motion to close the hearing?

Mr. Rose: So moved.

Mr. O'Connell: I make a motion.

Mr. McGuirk: Second?

Mr. Rose: Second.

Mr. McGuirk: All in favor?

Mr. McMullan: Aye.

Mr. Rose: Aye.

Mr. O'Connell: Aye.

Ms. Doyle: Aye.

Mr. McGuirk: Thanks Dave, thanks Dawn.

Mr. Harvey: Thank you very much.

Ms. Brierley: Thank you.

Mr. McMullan: Thank you.

Mr. McGuirk: Well done.

CONTINUED HEARING
Kooh, LLC – 17 Terbell Lane – SCTM #301-13-10-3

Mr. McGuirk: Pam, we have the continued hearing for Kooh, LLC, 17 Terbell Lane, can you please indicate who is sitting on this.

Ms. Bennett: Sure. Mr. McMullan, Mr. O'Connell, Mr. Rose, Ms. Doyle, and Mr. Karmely, and I don't think Shahab is here.

Mr. McMullan: Okay, is Bruce on?

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Mr. Horwith: I am, yes.

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

Mr. Horwith: Bruce Horwith, 16 Salt Marsh Path, East Hampton, New York.

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. McMullan: Since our last hearing, you have responded back to the Board and actually we have received similar comments for this project as we did the last one. Did you have a chance to look at those, Bruce, from the Trustees?

Mr. Horwith: No, I have not seen anything from the Trustees although I was talking to Jim Grimes about some other matter and he asked about the permit for the property but I have not spoken to the Trustees about this.

Mr. McMullan: So Pam, you have those requests from the Trustees, correct?

Ms. Bennett: Yes, we got them last night.

Mr. McMullan: Yes, so, I think what we should do is give Bruce time to look that over with his client and make sure that everything is acceptable to them because I think it is very important that we look at these areas where water like the ponds are impacted very carefully and I thank Jimmy Grimes for giving us that kind of letter and procedural recommendations. Does any Board Member have anything to add?

Mr. O'Connell: So, I just have one question for Bruce with regard to the applicants not desiring to put in any sort of sound attenuating fence, that is their position and they want hold for that position, correct?

Mr. Horwith: Well, I just wanted to talk about that a little bit. Is now the appropriate time?

Mr. McMullan: Yes.

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Mr. O'Connell: Yes.

Mr. Horwith: So I went over to look at the property, first of all my understanding back to the issue of the vegetation and the Trustees, my understanding was that the, I didn't realize that that was still pending, and I am sure that since we were going to need a Trustee permit in order to do that work, that was always the intention, I didn't realize the Trustees had any additional issue because we already had a permit with them but we will certainly look at that and get back to both the Trustees and to the Village about that. At the time that we left the last hearing, my understanding was that those issues had been resolved and the only question that the Board was concerned about had to do with a noise factor from the generator in regard to the neighbors. So I went out to the property, I guess it was a day or so after the hearing and looked at it, keeping in mind the comments of the Board, and as I said in my response, I really, this generator is quite far from any of the neighbors, I really didn't think that, it wasn't clear what sort of screening was being asked for and whether or not it was still appropriate but the owner has no issue at all with the idea of putting in screening if there is a need. Her house is, they are about 10 to 15 feet away from the generator, they have never been bothered by it, the closest neighbor is about 200 plus feet away, and there is natural, already vegetation in between, it is not necessarily native vegetation, it is a very weedy, open lot, not open but a lot so it is not clear if what screening if any would be appropriate. She has no objection to it, she is not fighting it but she is about to put in 10,000 plus dollars' worth of planting into redoing an area that was formerly was lawn and she has done extensive landscaping around the property and hopes to continue to, she just didn't feel the need to do any there.

Mr. McMullan: It is my feeling that the real neighbor is I believe the Nature Conservancy, right? There is a swath of land between the two properties, the neighbor and this property, I think that now becomes public property so people can actually be there so I don't know if there is a path actually through that area that people walk but I still think it is important that we do some sound attenuation and plantings and I know also that this is, this would technically trigger another variance to put this stuff up but I think we can overlook that, I don't know what the Board, how the Board Members feel, but in a way to prevent the sound transmission to neighboring properties, I think it is worth it and kind of overlooking the need for a variance to put a fence with some insulation around the generator.

Mr. O'Connell: I think we can incorporate that into our approval.

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Mr. Rose: We can incorporate that into the approval.

Mr. McMullan: Yes, as long as all the other Board Members feel the same way, that is fine.

Mr. O'Connell: I would agree with that.

Mr. Rose: I as well. Just want to follow up, Mr. Horwith, on the comments that the Trustees made. In addition to the restoration and the plant selection and the means and methods of the work to be done, there is an issue regarding irrigation on the part that does remain. Is there any permanent inground irrigation now in that lawn within the 125-foot setback?

Mr. Horwith: I would have to check and see; I will have to look into that. There is definitely no intent to add any irrigation other than temporary if any needed to be done.

Mr. Rose: Right but the point is, in the 125 foot setback, it should be, to the extent it is there, it should be removed, again, same question vis-à-vis the previous application that I believe you heard our discussion on, obviously without permanent irrigation that goes to the nature of the grass mix and what is being done, and it is important to have the, and within that 125 foot buffer with the exception of that marginal area for the vegetable garden, a. there is a no fertilizer requirement, and b. there is a lack of permanent irrigation requirement.

Mr. Horwith: Understood.

Mr. Rose: Using your expertise, there is a need to incorporate those factors into the horticultural front.

Mr. Horwith: Okay, understood. Can I get back to the comment about the neighbor, though just briefly, the public property neighbor that we are talking about is Peconic Land Trust, there is no public access through that property so if you still feel the same way about the need for landscaping as I said or screening, we will go ahead and do that. It is not clear, and I don't mean this facetiously at all, it is not clear at all what you are looking for, there is only about six to ten feet of area between the generator and the fence, and if we are not talking about some sort of complete enclosure to the generator, which I don't think you are suggesting, I just don't want to come back here and be told that what I did didn't anticipate what

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you are looking for, can you give me any guidance on that? If Billy knows, maybe I can work with Billy on it.

Mr. Rose: I can jump in. In a case where there is a mitigation, if there were neighbors within close proximity, residential dwellings and the like, the likelihood would be that we would seriously contemplate requiring removing the generator. In this case, because of the factors that you said, in order to permit it to remain there, going forward, and to not have a precedent to just allow, okay, there is a house 100 feet away as opposed to 25 feet or 50 feet away you have to screen it and protect it so coming up with a suitable plan and working it out with Billy and submitting to the application would be satisfactory but it does have to be done, at least in my opinion.

Mr. Horwith: Okay.

Mr. McMullan: So we will leave this open until the next meeting and just pick up from where we left off.

Mr. Horwith: Great, thanks.

Mr. McMullan: Thank you. So back to John.

ORIGINAL HEARING

12 West Dune Lane LLC – 12 West Dune Lane – SCTM #301-9-4-22

Mr. McGuirk: We're going to move into the new hearings for the meeting today. We have first on the agenda 12 West Dune Lane LLC, 12 West Dune Lane. Ms. Bennett?

Ms. Bennett: Application of 12 West Dune Lane LLC, SCTM#301-9-4-22, for an Area Variance from Chapter 278, Zoning, to construct additions to a preexisting nonconforming residence. A gross floor area variance is requested from Section 278-3.A.(13) to construct 83 square feet of additions and permit a residence to contain 5,968 square feet of gross floor area where the maximum permitted gross floor area is 5,571 square feet, and any other relief necessary. The existing residence contains 5,885 square feet of gross floor area. The subject property is 45,711 square feet in area and is located at 12 West Dune Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

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Mr. McMullan: Can I please just jump in and say that I am recusing myself from this application.

Ms. Bennett: Okay, then Andy will sit in?

Mr. McMullan: Thank you.

Mr. McGuirk: Good morning, Andy.

Mr. Baris: Good morning.

Mr. McGuirk: Andy Goldstein, you are going to, good morning.

Mr. Goldstein: Good morning, Andrew Goldstein, for the applicant. I have with me Steve Sanabria, one of the architects on the project. Pam, would you just swear Steve in and that way he will be able to talk without...

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

Mr. Sanabria: Steven Sanabria, 18 Sandlewood Court, Hampton Bays, New York 11946.

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

Mr. Sanabria: I do.

Ms. Bennett: Thank you.

Mr. McGuirk: Go ahead Steven or Andy.

Mr. Goldstein: Initially I would like to apologize to the Board, we did submit an amendment to the application just the other day because we had only learned that day that the Building Permit for the property had been amended to remove a portion of the building that is actually not part of this application but which had the effect of significantly reducing the amount of relief that we are requesting, going down from 83 square feet to 14 square feet for these, what are effectively two architectural details on the property which do not add living space per se. The first

16777

is, and I would like to hand over to Steve to let him explain what it is that is being requested.

Mr. Sanabria: Thank you, Members of the Board, my name, again, is Steven Sanabria from Fleetwood McMullan Architects. The first variance we are looking for is what I am calling the front entry variance which would be on the east side of the property and it is over the front entrance. The gambrel that currently exists, the main gambrel that exists on that side, what we are looking to do is just expand that gambrel in exactly the same shape, proportion, pitches, and everything else, with the same materials, shingles on the outside and the white trim, and pushing it out to the end of the roofline, currently it sits back, we would like to push it forward. Like Mr. Goldstein said, it doesn't add any GFA technically. What it does do is it gives us height inside the, right there, so it gives us the ability to kind of go into that door and have plenty of headroom to walk into that currently master walk-in closet so that space is...[inaudible]...and in doing that what happens also as a byproduct of that is we have to also add some area that is by the stair and it is basically floor area but it is not accessible unless you have to climb into that space. So the Building Department kind of said that that is really adding that GFA. The other variance that we looking for is the north part of the building and that is a bay window and the bay window would just house or basically be for the purposes of having a bathtub in that master bathroom. There is another bay window on the other side, the south side, so we are trying to copy of keep in kind the details of the outside so that bay window would just house the tub. The tub is a built-in tub and has a tub deck which is about 20 to 24 inches off the floor so you couldn't really walk into that space. You obviously step into the tub and access the tub, use the tub, but in doing so and having that tub deck, then we are not able to kind of walk into that area. That does add square footage as far as the Building Department is concerned so for those reasons, we are looking for a variance.

Mr. McGuirk: Thank you.

Mr. Goldstein: As I said they are removing an attached shed from the building which also reduces the preexisting encroachment into the side yard setback and so there is a reduction in the actual net GFA that is being requested. We are, the plans that would be built to were not actually changed, we have a survey, we would provide a survey that shows the proposed removal of the shed which would be the survey of record for a determination should you choose to grant one. Procedurally I would just like to leave the written record open so we could submit that so that it would not hold up any determination.

Mr. McGuirk: Thank you, Andy. Do we have any callers?

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

Mr. McGuirk: Does any Board Member have any issues with this? So, we will leave the written record open until the next meeting and then we can have a determination. You are going to submit a new survey, is that what you are saying, Andy?

Mr. Goldstein: Yes, we will submit a survey showing that that shed on the south side of the property being removed.

Mr. McGuirk: Okay, thank you very much. Thank you, Steven. So Pam, we will move onto the second hearing of the day.

ORIGINAL HEARING

Acacia Greene LLC – 8 Marina Lane – SCTM #301-8-10-45

Ms. Bennett: Sure. Application of Acacia Greene LLC, SCTM#301-8-10-45, for an Area Variance from Chapter 278, Zoning, to construct a tennis court. A 20-foot variance is requested from Section 278-3.A.(5)(c) to construct a tennis court 20 feet from the side yard lot line where the required setback is 40 feet, and any other relief necessary. The subject property is 69,832 square feet in area and is located at 8 Marina Lane in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Mr. McGuirk: Good morning, Jonathan.

Mr. Tabet: Good morning. So I think I may be a guilty party as submitting information late.

Ms. Bennett: Yes.

Mr. Tabet: It brought me back to high school and bringing my homework in late, I definitely feel guilty and I do apologize.

Mr. McGuirk: Don't get Pam mad, that is all I am saying.

Mr. Tabet: I am well aware of how that works. So yes, I do apologize. As the Board knows, I am not sure I have done that any time recently for sure, I apologize

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for doing it this time, it won't happen again. The client owns the house next door and bought this property about two years ago with the intent of mostly citing a tennis court on it, and maybe a guest house or tennis pavilion. There is an existing house on it which at some point that house will more than likely be torn down but there really is, we haven't even decided, partly because we are waiting to see whether the Board would grant this variance or not but the team, which included Landscape Details and Bates Masi Architecture, has not even really started the process of figuring out where the guest house would be located on the property. As the Board can see, it is a somewhat unusual shaped lot and really, they are still in the early planning stages. So, what they did, we all had a meeting with the primary intent being to add a tennis court to this property, we had a meeting to decide where would best be suited. That meeting included the common desire which is to have a tennis court on a north south axis, it also had, the applicant wanted pretty easy access to it from their house which will be where people will live on these two combined properties. The common boundary line that you see on the survey is really there for legal purposes only. The property is intended to be used as one property. You wouldn't merge them because of the loss of value on merger but for all intents and purposes, they intend to use both properties as one. So, during our meetings with that in mind, there was a lot of, as you can imagine sliding the tennis court around the property to see where it best fits the obvious location is near where it is, however, to meet setbacks would require the tearing down of the existing house on the property so that was not ideal, at least because there was no intention to tear the house probably within the next two years at least, maybe longer. And also, the problem was, if you look at the property it is just so ugly shape that putting it where the blue outline is which is the legal spot sort of slides the tennis court into the middle of the property so future planning for the property sort of centers around a tennis court, it sort of becomes a dominant feature on the property. With that in mind, we started looking at the setbacks, and as the Board is aware, you have accessory setbacks are 20 feet but tennis courts are required to be double setbacks. The reason for that being the tennis courts having associated noise component and the idea is that you double the setbacks to protect neighbors from the noise. So, knowing that the common boundary line was ourselves, we thought we would ask the Board for a variance because without a clear benefit there was no known detriment to locating the tennis court at the normal accessory setback because the only person who would suffer from any noise would be the actual applicant. Also, if you look at any old photographs of these properties, there is some slight benefit to sliding it closer to our client's property and that it slides it further away from any residential neighbors. We did look at precedent; I did submit two recent approvals from the Board. There was one at 127 Main Street, there was one at 94 Apaquogue. Both of those were

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approvals for very similar variances, somewhat surprisingly one of them was over the neighbor's objections but the other one had a letter of support from the neighbor so that further lead us to believe that if we ask for this variance, it may be viewed favorably. The last thing that has come up is, and it has come up in the course of my career representing people before Boards is that people say well it is all well and good you are not going to hurt yourself now, who is to say you won't sell your house in the future. So I think that has some validity, I mean the answer to that is usually that anybody who buys one of these properties in the future will be well aware of what is going on with the properties, would buy it eyes wide open which may lower the value or increase the value of the property as it may be but to try to element any source of friction, the client was further willing to covenant that in the event the property is sold in the future as not one but as individual properties that the tennis court would either be removed or they would come back to the Zoning Board at that time and ask for further relief. So, I believe I have outlined both of my letters and today that it is a pretty clearly defined benefit from granting the variance without any known detriment although we haven't heard if there are any neighbors or from the Board with regard to whether you can see any detriment. As this Board knows and I submitted a couple of cases in the Appellate division on this, the primary purpose of the Zoning Board is to do no harm both to the environment, to the community, and to the neighbors, and to do no harm you are asked to do a balancing test and the balancing test is benefit versus detriment and when there is no detriment, typically a Board would approve a variance. That is the end of my presentation.

Mr. McGuirk: Thank you. Do we have any callers on the line?

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

Mr. McGuirk: Okay. Board Members?

Mr. McMullan: I just have one question. Do we know how large the existing cottage is on that lot 14?

Mr. Tabet: So, based off the listing which is still available on line, it is 3,900 square feet but I don't want to represent that as being accurate, it is a real estate listing.

Mr. McMullan: No, that is close enough. My thing is is that if we were to grant this variance and now the client is going to take down the existing structure and build a new one, they can build something up to 8,400 square feet or so, I just find

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granting a variance to avoid taking down the house now, which you are just going to take down later, is a little odd. I don't know what the other Board Members feel about that but we are granting a variance toward something that can then be conforming later on if the house is going to come down. And I know it is not designed or planned for yet but just something to think about for the Board Members.

Mr. Rose: I, just picking up on Jim's comment, I have no problem with the, in light of the conditions of joint ownership of the neighboring property with the variance for the tennis court to the extent that but there obviously are plans that will be formulated for the redevelopment of the rest of the property. The swimming pool is being removed, the cottage, I am not sure it is a cottage, the house is going to come down, I don't know maybe more than two years from now but it certainly looks from doing a site visit that it is on its way to being torn down. I just want to underscore to avoid any kind of sort of serial treatment of issues, it is strongly encouraged the design of whatever goes there to be within the context of as of right. Don't seek a variance, you can do whatever you want, but I think the Board would be very skeptical of a variance that came back saying well we have to put this here and that there and we need relief because we have this tennis court that gets in the way so it should be...

Mr. Tarbet: We would be willing to covenant that for as long as a tennis court there, no further relief be requested. There is very clear intention not to ask for that.

Mr. O'Connell: I have concerns, it is a substantial variance, 50 percent, it is self-created, and it seems an alternative exists to put it somewhere else on the property, you could do a short court, those are my comments.

Mr. McGuirk: Thanks Philip. Carrie, any comments?

Ms. Doyle: No, I sort of agree with what they have said, it seems like it is going to open the door for a lot more variances but if they are going to assure us that that is not going to happen, I don't know why there is not just a master plan of what is going to be done so we know what we are going to see there already.

Mr. Tarbet: I can answer that question quickly, it is just that, I can tell you what the master plan includes which is a tennis pavilion and a guest cottage but laying it out is tricky because it is such an unusual building envelope and it partly depends,

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so I can tell you what is coming, but I can't tell you exactly where it is going to go only because it partly depends on whether the variance is granted or not.

Mr. McGuirk: Lisa, can you chime in here, they cannot put conditions on this, right, usually, where they are going to take them out? I don't know, I am just asking, Jonathan.

Mr. Tabet: Sometimes there is a question of whether you can force conditions on an applicant, I think the applicant can volunteer.

Ms. Perillo: They can agree to conditions, that is a suggestion you can make and it could be something that you require as part of the approval and if they agree to it, they agree to it.

Mr. Tabet: I think the issue is there is actually a nexus between what you are asking for and the request but, in this case, we are not even asking for it to be a nexus, I can completely understand why you would say, well what is coming next, I have seen that enough. So, we want to eliminate that fear by volunteering that there is no further request coming and we will put that as a covenant. We will work within the building envelopes.

Mr. McGuirk: Anybody else have any more comments?

Mr. Hajek: I could just add the building envelopes and the coverage limitations.

Mr. Tabet: Yes, as I was saying that, I was thinking that sounded like...

Mr. Hajek: It is an undersized lot...

Mr. Tabet: We will work within the Village Code.

Mr. Hajek: Okay, yes, it is a 70,000 square foot lot in an R-80 zone and the tennis court is going to chew up quite a bit of coverage and leave a nominal amount of coverage left over for a residence and a swimming pool and all the other amenities that typically come along with it.

Mr. Tabet: Yes, it actually was not something I thought of, I don't remember who said it first, but it is a very valid concern and hopefully we can address that by adding that covenant voluntarily and we will work within the Village Code on the rest on the property or remove the tennis court in which we have to come back to

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you for relief which I don't think we are removing the tennis court after we build it.

Mr. McGuirk: Okay, any other comments from the Board? Philip, do we have a motion to close the hearing?

Mr. McMullan: I make a motion.

Mr. O'Connell: I make a motion.

Mr. McGuirk: Second?

Mr. Rose: Second.

Mr. McGuirk: All in favor?

Ms. Doyle: Aye.

Mr. McMullan: Aye.

Mr. Rose: Aye.

Mr. O'Connell: Aye.

Mr. McGuirk: Thank you, Jonathan.

Mr. Tarbet: Thank you.

Behind the Pond, LLC – 50 Highway Behind the Pond – SCTM #301-9-4-16.1

Mr. Goldstein: May I ask a question, John?

Mr. McGuirk: Who is that?

Mr. Goldstein: Andy Goldstein. There was a determination included in the agenda, 50 Highway Behind the Pond, that was omitted from the determinations that were voted on.

Mr. McGuirk: Pam?

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Ms. Bennett: No, it wasn't.

Mr. Tarbet: You voted on it.

Mr. McGuirk: We voted on it.

Mr. Goldstein: Really?

Mr. Tarbet: Maybe it got denied.

Mr. Goldstein: No wonder, I have selective hearing. So, it was approved in other words?

Mr. McGuirk: You are all done, Andy.

Mr. Goldstein: Thank you very much.

Mr. McGuirk: You got it, have a nice day.

ORIGINAL HEARING

Quercus27east LLC – 103 Montauk Highway – SCTM #301-7-6-14.3

Mr. McGuirk: Jimmy, I am going to recuse myself from this application and Jim McMullan is going to take over from here and I believe Jonathan is up again. So thank you all.

Ms. Bennett: And then Andy Baris will sit in.

Mr. McMullan: Thank you. Do you want to read the posting?

Ms. Bennett: Yes, application of Quercus27east LLC, SCTM#301-7-6-14.3, for Area Variances from Chapter 278, Zoning, to reconstruct a preexisting nonconforming residence and to construct a patio, a porch, and a window well. A variance is required from Sections 278-2.B.(1) and 278-7.C.(2)(d) to reconstruct a single-family residence on a parcel of land containing an office use and two single-family residences where one single-family residence is the maximum permitted by zoning. Variances of 16.1 feet, 20 feet, 16 feet, and 5 feet are required from Sections 278-3.E.(1) and 278-3.A.(4) to permit the reconstruction of a single-family residence located 17.9 feet from a side yard lot line and to construct a window well, patio, and porch located 14 feet, 18 feet, and 29 feet from the side

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yard lot line where the required transitional yard setbacks are 34 feet. A 452 square foot coverage variance is requested from Section 278-3.A.(9) to permit 23,876 square feet of coverage where 23,424 square feet is legally preexisting; permitted coverage is 12,890 square feet. The subject property is 64,453 square feet in lot area and is located at 103 Montauk Highway with frontage along Cove Hollow Road and is in Residence District R-80. This project requires approval by the Village Design Review Board and is classified as a Type II in accordance with SEQR.

Mr. McMullan: Thank you, Pam. So Jonathan do you want to...

Mr. Tarbet: Yes, a quick walkthrough. So everybody on the Board I know is familiar with the history of this property. It was an eyesore and huge problem for the Village prior to Michael Derrig buying it and converting it from a restaurant, it was always a restaurant, to his offices. Hopefully everybody had a chance to go out there for the purpose of reviewing, the property is actually gorgeous now. Most of the effort was put into landscaping and switching the restaurant over to his current offices. He is now focused on the two accessory structures which are single-family houses. They are in really, at least the one before the Board today is in really, really rough shape, it is closing in on not being habitable, no attention has been paid to it for probably 50 years. The restaurant used it as a four-bedroom house for staff probably at least four bedrooms, you can imagine there were probably a lot more people live in the structure, the goal is simply to rebuild it on the existing footprint. It will not look exactly the same. Most of the reason for that is aesthetic. There was a house there and then probably in the early 80's there was a shed added to the back of the house so if you look at the existing plans for the application, you will see, it is typically referred to as a bastardization of the original home, it is all legal but it is just not architecturally a pretty house. The plan is to rebuild it, the plan is to rebuild it with a different roofline, however, while you look at it and you say it is going to be a two-story house, it is really not, it is a story and one-half. Part of that reason is if you look, what is currently a four-bedroom house will be rebuilt as a one-bedroom house and that one bedroom is in a loft. So, you keep the footprint but you are only having a loft for a bedroom upstairs that will overlook the downstairs so you are going to have a double, when you walk in, it is going to be a very small structure. So, to add to the livability inside of the house, it is going to have a double height which will make it feel bigger inside and then you will have your bathroom, your kitchen, and your living room and then you will have a small bedroom with a bathroom in the loft upstairs. I can remember when we came in to convert the restaurant to the office, the neighbor spent a long time at the hearings talking about how badly the property is

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being treated and all her fears about how it will be treated in the future, that neighbor, I can almost guarantee you will not, and that is the neighbor who is closest to this house, that neighbor I can almost guarantee you will not be on the phone today because they could not be more happy with the transition that went on from living for decades next to a restaurant to living next to which is almost like an arboretum if you go to the property. So other than the need to rebuild, other than the fact that it triggers, there are two things triggering our need to be here today, one is that because there are two cottages on the property, any change to them triggers the need to come to the Zoning Board and the second is he is proposing, if you go there now, there is sort of a gravel area behind the house and we are proposing to make that a patio so we would need a coverage variance. If this was a residential property, we actually wouldn't need a coverage variance but we do because for commercial properties parking counts as coverage, driveways count as coverage also so it is a residential variance we are seeking, and we are applying commercial coverage variance standards but, again, the reason for that is to convert a stone area to a patio area behind the house. I will leave that out for you if there are any questions from the Board.

Mr. O'Connell: All we are talking about is a coverage issue?

Mr. Tabet: There is a variance triggered simply by the fact that we want to rebuild, no, I should be more clear. There is a variance triggered simply by the fact that we want to rebuild a cottage where there is two of them, there is the variance for the coverage, and then there is a couple very minor, there are a couple of bumped out porches and an entryway to the basement that are additions. So, the house itself doesn't require any, Billy will correct me if I am wrong, variances but I believe some of the little bump outs do.

Mr. O'Connell: Thank you.

Mr. McMullan: And then this isn't expanding the square footage of this house, correct?

Mr. Tabet: It did not, well it may to the extent, yes, it probably does because we are going to double count the...

Mr. McMullan: Anything over 15 feet, right?

Mr. Tarbet: Yes, I suspect that it might increase it slightly but there is not any more floor area inside the house. We are actually reducing the bedrooms from four to one.

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

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

Mr. McMullan: Thank you, Jody. Any other Board Member want to be heard?

Mr. O'Connell: Does this trigger new septic do you know, anybody know?

Mr. Tarbet: I don't know the answer to the question.

Mr. Hajek: Yes, I can opine. Billy Hajek for the Village, good morning. Yes, it would, reconstruction of a residential structure requires installation of an innovative alternative septic system.

Mr. Tarbet: Actually, now that Billy mentions it, I think that was an early discussion and that has been applied for, now that I am thinking about it.

Mr. O'Connell: Is that just for that structure, does not cover, do all the structures share the same septic? Obviously, the septic flow is nothing like it was before when it was a restaurant.

Mr. Hajek: I think the septic system for the main, what was the former restaurant, has been upgraded already as part of that redevelopment project. I don't know if the two cottages share a single system. Based on the location of the concrete covers near the structure, I would guess not but it is possible that they do.

Mr. O'Connell: Okay, just a question. Thank you.

Mr. McMullan: Joe, do you have any comments?

Mr. Rose: No.

Mr. McMullan: Anyone else? Carrie?

Ms. Doyle: No.

Mr. McMullan: Andy? You are on mute.

Mr. Baris: Sorry.

Mr. McMullan: That is okay.

Mr. Baris: I don't have anything to add at this time.

Mr. O'Connell: I make a motion to close the hearing.

Mr. Rose: Second.

Mr. McMullan: Thank you. All in favor?

Mr. Rose: Aye.

Mr. O'Connell: Aye.

Mr. Baris: Aye.

Ms. Doyle: Aye.

Mr. McMullan: Excellent.

Mr. Tarbet: Thank you.

Mr. McMullan: Thank you. So I think we, again, we have lost our leader, so I will entertain a motion to close the meeting.

Mr. Rose: Before we close, I just want to underscore, for Pam, if you are still there.

Ms. Bennett: I am here.

Mr. Rose: I just want to underscore and for Lisa that the determinations on the pond front properties we acted on before that we incorporate the Trustees' issues especially regarding the irrigation and the like. I just want to make sure that is in there.

Mr. McMullan: Great, thank you. So can I have a second to close the meeting.

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Mr. Rose: Second.

Mr. McMullan: All in favor?

Mr. Rose: Aye.

Mr. O'Connell: Aye.

Mr. Baris: Aye.

Ms. Doyle: Aye.

Mr. McMullan: Everyone have a great weekend.

The meeting was adjourned at 11:56 a.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, April 8, 2022 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 the hearings are to be conducted via video-conferencing, please contact pbennett@easthamptonvillage.org to find out how to participate. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Alerts" tab.

Application of Maidstone Club, Inc., SCTM#301-9-4-11, for a Special Permit and Variance in accordance with Chapter 278, Zoning, and Chapter 163, Freshwater Wetlands, to install a series of leaching pipes and sump pump to capture stormwater runoff and transfer it to an existing retention pond. A Freshwater Wetlands Permit and variances are required in accordance with Chapter 163 and Section 278-3.A.5. to install approximately 1,422 linear feet of drainage piping, a pump station in a wet well and associated power supplies within wetland setbacks. A Special Permit is requested in accordance with Section 278-7.D. for the extension and installation of structures associated with a membership club. The subject property is 33.87 acres and is located at 95 Dunemere Lane. The property is located in Residence Districts R-160,

in Flood Zone AE (el.10) and has frontage on Hook Pond. This project is classified as an Unlisted Action in accordance with SEQR. Application of Guild Hall of East Hampton, Inc., SCTM#301-8-5-3, for a Special Permit and Variances in accordance with Chapter 278, Zoning, to make alterations to an existing theater use and construct accessory improvements. A Special Permit is requested in accordance with Section 278-7.D. to make alterations to the building and construction of accessory building and accessory structures in connection with the special permit use of the property. A 3,464 square foot variance is requested from Section 278-3.A.(9) to permit 33,325 square feet of coverage where 29,861 square feet presently exists and 9,170 square feet is the maximum permitted by zoning. Variances are requested from Sections 278-3.A.(3), (4) and (5) and 278-3.E.(1) and (2) to permit the construction of the following improvements: A stairway/light well 14.8 feet and 19.6 feet from the front yard lot lines where the required setbacks are 50 feet; an ADA accessible ramp 20 feet from the front yard lot line where the required setback is 55 feet; two terraces located 2.4 feet and 2.9 feet from the front yard lot lines where the required setbacks are 55 feet; a storage shed located 9 feet from the rear yard lot line where the required setback is 34 feet; two pedestrian walkways located 0 feet from the front and rear yard lot lines where the required setbacks are 34 feet; and resurfacing and enlargement of an existing parking area

to be located 0 feet from the front and side yard lot lines where the required front yard setback is 55 feet and the side yard setback is 34 feet. A variance is requested from Section 278-3.E.(2) for the omission of landscape plantings within the 34-foot transitional yard setback. A variance is requested from Section 278-7.C.(2) to permit the alteration of a building containing a nonconforming theater use located in a residential district, and any other relief necessary. The property is 45,848 square feet in size and is located at 158 Main Street. The property is located in Residence District R-80 and the Main Street Historic District. This project requires approval of the Design Review Board and is classified as an Unlisted Action in accordance with SEQR.

A request is made by Lily Pond Equities, SCTM#301-13-13-11.1, for a one-year extension of time of a Coastal Erosion Hazard Area Permit and Variance granted by the Zoning Board of Appeals on March 12, 2021 and amended April 9, 2021 that authorized the construction of additions and alterations to the existing residence and the construction of a screened porch and accessory improvements. The subject property is 76,811 square feet in area and is located at 33 Lily Pond Lane in Residence District R-160. The property adjoins the ocean beach and is located in FEMA Flood Zone VE (el. 17) and Zone X. 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: March 18, 2022
By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals, Inc. Village of East Hampton

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 4/8/22
TIME: 2:49 PM

Pamela J Bennett

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