

Zoning Board of Appeals  
January 13, 2023  
11:00 a.m.  
Emergency Services Building  
One Cedar Street, East Hampton

Those present were:

John L. McGuirk III, Chairman  
James H. McMullan, Vice Chairman  
Philip O'Connell, Member  
Joseph B. Rose, Member  
Andrew Baris, Member  
Abigail Lamb FitzSimons, Alternate Member  
Lisa Perillo, Village Attorney  
Billy Hajek, Village Planner  
Thomas Preiato, Village Building Inspector  
Trevor Darrell, Attorney on behalf of Art. Fourth B. Trust c/o Candace Phillips  
Shannen McCaffrey, Agent on behalf of Philip Shuttleworth and  
Paula Maria Harvey  
Estaban Lopez, Agent on behalf of Gianfranco and Surbhi D'Attis  
Jody Gambino, LTV Moderator  
Pamela J. Bennett, Village Clerk

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

MINUTES

Upon motion of Joseph B. Rose, duly seconded by James H. McMullan, the Board unanimously approved the minutes of December 9, 2022.

DETERMINATIONS

Hamptons Residence LLC – 16 Nichols Lane – SCTM #301-13-11-11

33 GB LLC – 33 Gingerbread Lane – SCTM #301-2-5-4

Chairman McGuirk stated that the determinations for these applications will be issued at the Board's February 10, 2023 meeting.

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DETERMINATION

**Andrew and Alyssa Klein – 177 Main Street – SCTM #301-8-2-23**

Upon motion of Philip O’Connell, duly seconded by Joseph B. Rose, the request to construct a patio and pergola, walkways, and an A/C condenser unit is denied. The Board voted as follows:

- Chairman McGuirk - Aye
- Vice Chairman McMullan - Aye
- Member O’Connell - Aye
- Member Rose - Aye
- Member Baris - Aye

DETERMINATION

**Traumhaus 1, LLC – 75 West End Road - SCTM #301-15-5-11.1**

**Traumhaus 2, LLC – 69 West End Road - SCTM #301-15-5-10**

Upon motion of James H. McMullan, duly seconded by Philip O’Connell, the request to clear land, install a gravel driveway, modify a previously issued permit granted by the ZBA, revegetate land, and construct a parking area is approved. The Board voted as follows:

- Chairman McGuirk - Aye
- Vice Chairman McMullan - Aye
- Member O’Connell - Aye
- Member Rose - Aye
- Member Baris - Aye

DETERMINATION

**Gals Beach House LLC – 24 Two Mile Hollow Road – SCTM #301-10-1-30.1**

Upon motion of Philip O’Connell, duly seconded by James H. McMullan, the request to legalize A/C condenser units is approved. The Board voted as follows:

- Chairman McGuirk - Aye
- Vice Chairman McMullan - Aye
- Member O’Connell - Aye
- Member Rose - Aye
- Member Baris - Aye

DETERMINATION

**Eric and Lori Blatstein – 211 Lily Pond Lane – SCTM #301-15-4-12**

Upon motion of James H. McMullan, duly seconded by Andrew Baris, the request to construct a detached garage is approved. The Board voted as follows:

Chairman McGuirk - Aye  
Member McMullan - Aye  
Member O'Connell - Aye  
Member Rose – Nay  
Member Baris – Aye

DETERMINATION

**Buck Properties, LLC – 29 Dunemere Lane – SCTM #301-9-4-3**

Upon motion of Joseph B. Rose, duly seconded by Philip O'Connell, the request to legalize a putting green, fencing, patios and a water feature is approved. The Board voted as follows:

Chairman McGuirk - Aye  
Vice Chairman McMullan - Aye  
Member O'Connell - Aye  
Member Rose - Aye  
Member Baris - Aye

DETERMINATION

**26 West End Road, LLC – 26 West End Road – SCTM #301-15-3-7.1**

Upon motion of John L. McGuirk III, duly seconded by Andrew Baris, the request to construct two accessory structures/art sculptures is approved. The Board voted as follows:

Chairman McGuirk - Aye  
Vice Chairman McMullan - Aye  
Member O'Connell – Nay  
Member Rose - Aye  
Member Baris - Aye

DETERMINATION

**Little Plain Homeowners Association, Inc. – 186 Lily Pond Lane –  
SCTM #301-12-7-14**

Upon motion of Joseph B. Rose, duly seconded by John L. McGuirk III, the request to remove phragmites is approved. The Board voted as follows:

Chairman McGuirk - Aye  
Vice Chairman McMullan - Aye  
Member O'Connell - Aye  
Member Rose - Aye  
Member Baris - Aye

APPLICATION WITHDRAWN

Lisa and Gary Seff – 43 Mill Hill Lane – SCTM #301-3-8-1

Chairman McGuirk stated that this application has been withdrawn.

REQUESTED ADJOURNMENT

The Rosery LLC – 146 Main Street – SCTM #301-8-5-1

The Board is in receipt of a request to adjourn this application until the February 10, 2023 meeting.

RENOTICING REQUIRED

Hunting Hospitality LLC – 94 Main Street – SCTM #301-3-8-1

Chairman McGuirk stated that this application requires re-noticing. Village Attorney Perillo stated that the application will be re-noticed and a new hearing date will be set to more accurately reflect the relief requested.

ORIGINAL HEARING

Art. Fourth B. Trust c/o Candace Phillips – 12 Egypt Close – SCTM #301-4-7-20

Chairman McGuirk called the hearing to order at 11:09 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Art. Fourth B. Trust c/o Candace Phillips, SCTM#301-4-7-20, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence and construct a hot tub. A 117 square foot gross floor area variance is requested from Section 278-3.A.(13) to construct additions and permit a residence to contain 6,188 square feet of gross floor area. The maximum permitted gross floor area permitted by zoning is 5,084 square feet. The existing residence contains 6,071 square feet of gross floor area and a prior Zoning Board of Appeals determination permitted 6,095.4 square feet of gross floor area. A 12.2-foot variance is required from Section 278-3.A.5.(c) to construct a hot tub 27.8 feet from the rear yard lot line where the required setback is 40 feet. The subject property is 40,842 square feet in area and is located at 12 Egypt Close in Residence

District R-80. This project is classified as a Type II Action in accordance with SEQR.

Trevor Darrell Esq. appeared on behalf of the applicant; no one appeared in opposition. Mr. Darrell stated that the application has been amended which requests only 58.5 square feet of additional gross floor area as opposed to the 117 square feet previously requested. Mr. Darrell submitted photographs depicting the areas of the requested variances. The applicant had requested a five-foot bump out addition which has been amended to a two and one-half foot bump out which is 58.5 square feet; Mr. Darrell stated that the applicant understands that this property is preexisting nonconforming and already has had relief granted by the Board. The house has doors on the north and south ends but no door on the west which faces the rear yard; the bay window will be removed and an addition built which straightens out that façade and a slider installed which provides ingress and egress to the rear yard from what is the library of the structure. Mr. Darrell stated that he will submit a revised survey. The Board found no objection to the proposed addition.

With reference to the hot tub variance request, Mr. Darrell stated that the applicant has a narrow swimming pool and when it was designed, the pool was placed on the northern side of the house. The hot tub is proposed at the end of the swimming pool which does not encroach any farther into the setback but still requires a variance. The photos indicate that the neighbor's property to the north contains a generator and the neighbor's property to the west contains a trampoline; Mr. Darrell suggested that the hot tub would not impact the neighbors. Chairman McGuirk stated that the Board did not receive any objection letters from the neighbors but asked Mr. Darrell if he reached out to the neighbors. Mr. Darrell said no.

Vice Chairman McMullan asked if the pool equipment is in the basement of the house or in the garage as it is not depicted on the survey. Mr. Darrell stated that he does not know but will contact the pool contractor. Chairman McGuirk stated that the Board will not close the hearing until in receipt of the revised survey showing the addition and where the pool equipment is to be located. Mr. Darrell stated that there is no requested relief for the pool equipment.

ORIGINAL HEARING

Philip Shuttleworth and Paula Maria Harvey – 72 Pantigo Road –

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**SCTM #301-4-7-7.1**

Chairman McGuirk called the meeting to order at 11:15 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Philip Shuttleworth and Paula Maria Harvey, SCTM#301-4-7-7.1, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence and convert a third story attic into habitable space. A variance is required from Section 278-2.B.(1) to permit alterations and the conversion of a third story attic into habitable space when a single-family residence is limited to two stories. A 3.8-foot variance is requested from Section 278-3.A.5.(b) to construct an addition 20.2 feet from a side yard lot line where the required setback is 24 feet. The subject property is 27,764 square feet in area and is located at 72 Pantigo Road in Residence District R-20 and The Hook Historic District. This project is classified as a Type II Action in accordance with SEQR and requires approval of the Village Design Review Board.

Chairman McGuirk stated that the Board has received a letter in support of the application from the neighbor directly to the west.

Shannen McCaffrey, 265 Accabonac Road, East Hampton, New York 11937, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. No additional material was submitted into the record; no one appeared in opposition.

Ms. McCaffrey stated that she is before the Board requesting two variances. The applicants have owned the property since 2009 and the property is preexisting nonconforming to current side yard setback requirements and has a partially finished third floor. A 187 square foot second story addition is proposed to be 20.2 feet from the side yard lot line where 24 feet is required and the second variance request is to allow for the construction of dormers to expand the habitable living space on the third floor. There exists a legal recreation room and exercise/office room on the third floor and the dormers will increase the head height and expand the habitable floor area. The dormers will be fitted with proper egress and the required sprinkler system will be installed. The proposal will not create an undesirable change to the character of the neighborhood; the addition is over the current first floor and will not encroach any further into the side yard than the existing dwelling. The dormers face the rear yard and will not

create any visible changes to the public view. The goals of the applicant cannot be achieved by any method other than seeking these variances. The addition is proposed in this location because it is the least invasive to the existing dwelling; if an addition were proposed in another location, it would require extensive interior renovations and foundation work. The variances are not substantial and represent only a 15.8 percent reduction in the required setback while maintaining the existing setback of the dwelling. The proposal will not have an adverse impact on the physical or environmental condition in the neighborhood; this is a small residential addition with no change to the footprint. The home will remain a single-family residence and will not intensify the present use. This is not a self-created hardship since the property is preexisting nonconforming to the side yard setback and has finished space on the third floor of the attic. The grant of these variances will allow for the applicant to be able to have room for their family, have proper egress, and the sprinkler system will increase the safety of the house.

Member Rose suggested that the application be forwarded to the Historic Preservation Committee for review. Ms. McCaffrey stated that there was a Design Review Board application back in 2018 for the second story addition, minus the dormers, which was approved but the project was never fully seen through; the applicant has resubmitted for the total project.

Chairman McGuirk stated that he does not believe the Board has an objection but would like comments from the Historic Preservation Committee before closing the hearing.

#### ORIGINAL HEARING

#### Gianfranco and Surbhi D'Attis – 16 Gould Street – SCTM #301-1-1-12

Chairman McGuirk stated that he and Vice Chairman McMullan will recuse themselves from this application; Alternate Member Lamb FitzSimons also recused.

Chairman Pro-Tem O'Connell called the hearing to order at 11:21 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Gianfranco and Surbhi D'Attis, SCTM#301-1-1-12, for Variances from Chapter 278, Zoning, to construct a new single-family residence, detached garage, swimming pool, and accessory improvements. A 181 square foot

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variance is required from Section 278-3.A.(9) to permit 3,817 square feet of coverage where the maximum permitted coverage is 3,636 square feet. A 319 square foot variance is required from Section 278-3.A.(13)(a) to permit construction of a residence containing 2,887 square feet of gross floor area where the maximum permitted gross floor area is 2,568 square feet. Two variances of 15 feet each are required from Section 278-3.A.(5)(c) to permit the construction of swimming pool equipment located 5 feet from a rear yard lot line and 5 feet from a side yard lot line where the required setbacks are 20 feet. Variances of 1.5 feet and 1 foot are required from Section 278-3.A.(5)(a) to permit construction of a detached garage located 33.5 feet from the front yard lot line and for the construction of an A/C condenser unit located 34 feet from the front yard lot line where the required setbacks are 35 feet. Two 4-foot variances and a 5.2-foot variance are required from Section 278-3.A.(3)(a) to construct two window wells 26 feet from the front yard lot line and an entry portico 24.8 feet from the front yard lot line where the required setbacks are 30 feet. A 0.7-foot variance is required from Section 278-3.A.(4)(a) to permit the construction of a residence located 21.3 feet from a side yard lot line where the required setback is 22 feet. A 2-foot variance is required from Section 278-3.B.(2)(a) to permit a residence to contain a height of 32 feet where the maximum permitted height is 30 feet. The subject property is 15,679 square feet in area and is located at 16 Gould Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Esteban Lopez, 210 Southaven Avenue, Medford, New York 11763, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. No additional material was submitted into the record; no one appeared in opposition. Mr. Lopez stated that the house that existed has been demolished; the 181 square foot lot coverage variance request is due to the patio proposed between the rear of the house and the swimming pool; the 319 gross floor area variance request is to accommodate an elevator and a comfortably spaced bedroom on the main floor so as to be accessible for the owner's elderly family member which will not have a substantial impact on the surrounding neighborhood characteristics and is for the safety of an elderly person; the pool equipment pad is 15 feet from the rear and side yards where 20 feet is required because the front dwelling setback dictates where the house should be located which results in a small backyard, and positioning the pool equipment pad 20 feet from each lot line would fall in the middle of the backyard where it is designated to be the kids' play area; the proposed garage location does not meet the setback due to the placement of the septic system at the rear of the garage while leaving

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some space to work around as suggested by the septic system installer; two window wells and an entry portico are proposed, and the size of the window wells will allow the applicant to meet the light and ventilation calculation required for the basement; the side yard setback request for the residence is due to the elevator which is a custom elevator which is required to be a certain dimension in order for the cap to fit; with reference to the height variance request, the ridge of the house is not exceeding 30 feet, however, the elevator walls are 32 feet tall which is to mimic the look of a chimney from the outside so it matches a standard chimney look and the characteristics of the neighborhood.

Mr. Perez stated that he understands that the list of variances are many but believes that for each there is a minor relief sought and hopes that the Board takes into account that the design and intent was done to reduce and eliminate as many variances as possible.

Chairman Pro-Tem O'Connell asked Mr. Perez if he is the architect. Mr. Perez said no but that he is working with the architect. Chairman Pro-Tem O'Connell stated that the architect reviewed the Code and thought that this many variances was a good idea. Mr. Perez stated that the architect originally had the design to meet the Code and then going back and forth with the owner, it kept growing and growing. The architect suggested multiple times to keep it to a minimum but the owners felt at least they wanted to try. Chairman Pro-Tem O'Connell stated that it is a longstanding policy of the Village that when you are starting from scratch, you should comply with all the Codes; there is the alternative to build a functional home and meet all the setbacks. Chairman Pro-Tem O'Connell stated that there is a lot of mass when you look at the plans and that will change the character of the neighborhood. The aggregate of all the variances raises it to a substantial request.

Member Rose stated that on the drawings there is a proposed pool equipment pad and questioned the status in terms of regulations. Mr. Perez stated 20 feet is required and the applicant is requesting a five foot setback. Member Rose stated that that is a 15-foot variance request. Mr. Perez stated that the pool equipment pad would be in the middle of the yard. Member Rose stated that there is a long list of substantial variances requested for a cleared site. Mr. Perez stated that the house that was demolished also did not meet some of the requirements; the proposed house will be set back farther from the street than the existing was and was closer to the side. Chairman Pro-Tem O'Connell stated that when an existing residence is removed, you have to comply with the requirements. Member Baris

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agreed that there is way too much going on with the application and cannot see the application being approved. Mr. Perez stated that if the Board allows it, the variances will be reduced. Member Rose asked if the home was in existence when the property was acquired. Mr. Perez said yes. Member Rose asked when the property was acquired. Mr. Perez said about two years ago. Member Rose questioned the gross floor area of the prior house. Mr. Perez stated that it was 1,128 square feet. Member Rose stated that he agrees with his colleagues that there is a lot trying to be shoehorned onto a small site which is overly ambitious in terms of the variances requested in relation to the character of the area and the regulations as they exist. Member Baris added, on a cleared lot. Chairman Pro-Tem O'Connell stated that the applicant has the ability to create a livable home on the lot and meet zoning. Mr. Perez asked if he could go down the list to go back and amend and asked for feedback. Member Rose stated that the Board would have to deliberate. Chairman Pro-Tem O'Connell stated that in his opinion, when you tear down the house, you need to comply. Mr. Perez asked if there will be any relief. Member Rose stated that the design for the house that is being proposed does not relate to the regulations; it is one thing if there is a house that is striving to comply with the regulations as it is drafted and working to identify one or two tweaks to the elevator or to a marginal adjustment, but this is a wholesale, across the board disregard for the Code. The Board's job is to mitigate special cases where there are compelling grounds for relief; this is not one of those situations; this is a proposal that does not regard the Zoning as existed recently and not at all that long ago been reaffirmed. It is not the Board's job to design the house. Chairman Pro-Tem O'Connell stated that he will not go through and parse it out and asked Member Baris how he feels. Member Baris stated that he cannot agree more; too many variances are requested and too big of an application on a cleared lot and requesting that the Board do the work and figure out what is going to be acceptable versus not, and he frankly finds it a little insulting and may be speaking out of line but it seems like a lot going on. Member Baris added that his advice is to start over. Mr. Perez stated that originally, they met all the requirements and it was under the owner's suggestion that they request the variances; he is aware that they have to go back to the drawing board and it is what it is. Mr. Perez hoped for some feedback for some of the items and apologized if it offended the Board. Member Baris stated that the feedback is that the applicant is dealing with a cleared lot and the applicant should conform.

Upon motion of Joseph B. Rose, duly seconded by Andrew Baris, the Board unanimously closed the Public Hearing.

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Compliance with Zoning Board Determinations  
Kooh, LLC – 17 Terbell Lane – SCTM #301-13-10-3  
24 West End Road LLC – 24 West End Road – SCTM #301-15-3-5.1

Vice Chairman McMullan stated that the Board has received two memorandums from Village Planner Hajek, dated December 22, 2022 and December 20, 2022, indicating how the applicants have followed through with their applications and thanked the property owners. Member Rose stated that it is extremely helpful to see that the applicants comply with the Board's determinations.

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Upon motion of Philip O'Connell, duly seconded by Joseph B. Rose, the Board unanimously adjourned the meeting at 11:38 a.m.

**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, January 13, 2023 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. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Alerts" tab.

Application of Gianfranco and Surbhi D'Attis, SCTM#301-1-1-12, for Variances from Chapter 278, Zoning, to construct a new single-family residence, detached garage, swimming pool, and accessibility improvements. A 181 square foot variance is required from Section 278-3.A.(9) to permit 3,817 square feet of coverage where the maximum permitted coverage is 3,636 square feet. A 319 square foot variance is required from Section 278-3.A.(13)(a) to permit construction of a residence containing 2,887 square feet of gross floor area where the maximum permitted gross floor area is 2,568 square feet. Two variances of 15 feet each are required from Section 278-3.A.(5)(c) to permit the construction of swimming pool equipment located 5 feet from a year yard lot line and 5 feet from a side yard lot line where the required setbacks are 20 feet. Variances of 1.5 feet and 1 foot are required from Section 278-3.A.(5)(a) to permit construction of a detached garage located 33.5 feet from the front yard lot line and for the construction of an A/C

condenser unit located 34 feet from the front yard lot line where the required setbacks are 35 feet. Two 4-foot variances and a 5.2-foot variance are required from Section 278-3.A.(3)(a) to construct two window wells 26 feet from the front yard lot line and an entry portico 24.8 feet from the front yard lot line where the required setbacks are 30 feet. A 0.7-foot variance is required from Section 278-3.A.(4)(a) to permit the construction of a residence located 21.3 feet from a side yard lot line where the required setback is 22 feet. A 2-foot variance is required from Section 278-3.B.(2)(a) to permit a residence to contain a height of 32 feet where the maximum permitted height is 30 feet. The subject property is 15,679 square feet in area and is located at 16 Gould Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

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setback is 40 feet. The subject property is 40,842 square feet in area and is located at 12 Egypt Close in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Application of Philip Shuttleworth and Paula Maria Harvey, SCTM#301-4-7-7.1, for Area Variances from Chapter 278, Zoning, to construct additions to an existing residence and convert a third story attic into habitable space. A variance is required from Section 278-2.B.(1) to permit alterations and the conversion of a third story attic into habitable space when a single-family residence is limited to two stories. A 3.8-foot variance is requested from Section 278-3.A.5.(b) to construct an addition 20.2 feet from a side yard lot line where the required setback is 24 feet. The subject property is 27,764 square feet in area and is located at 72 Pantigo Road in Residence District R-20 and The Hook Historic District. This project is classified as a Type II Action in accordance with SEQR and requires approval of the Village Design Review Board.

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: December 16, 2022

By Order of  
John L. McGuirk III,  
Chairman  
Zoning Board of Appeals  
Inc. Village of East Hampton  
24-2/194

FILED  
VILLAGE OF EAST HAMPTON, NY  
DATE: 2/28/23  
TIME: 9:44 AM

*Pamela J. Bennett*

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