

Zoning Board of Appeals  
August 11, 2023  
11:00 a.m.  
LTV Studios  
75 Industrial Road  
Wainscott, NY

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  
Alexander Balsam, Attorney on behalf of Timothy J. Tynan and the  
Jewish Center of the Hamptons  
Mr. and Mrs. Timothy Tynan, Applicants  
Christopher DiSunno, Architect on behalf of Timothy J. Tynan  
Denise Schoen, Attorney on behalf of Keith L. and Anne Cynar  
Katy Frank, Representative on behalf of Susan L. Shuman Family Trust  
Charles Gallanti, Builder on behalf of Susan L. Shuman Family Trust  
Meredith McNaughton and John McAneny, Applicants  
Thomas R. Crouch, Attorney on behalf of Mark K. Webb  
Richard Dattner, Architect on behalf of the Jewish Center of the Hamptons  
Rabbi Joshua Franklin, Jewish Center of the Hamptons  
Jameson McWilliams, Attorney on behalf of Debbie Buell and Charles Henry  
and Madelaine Haberman and Michael Sprung  
Bonnie Schnitta, SoundSense on behalf of Debbie Buell and Charles Henry  
and Madelaine Haberman and Michael Sprung  
Michael Sprung, Neighbor of the Jewish Center of the Hamptons  
Robert Petrozzo, Neighbor of the Jewish Center of the Hamptons  
Pamela J. Bennett, Clerk

Chairman McGuirk called the meeting to order at 11:00 a.m. and thanked LTV Studios for hosting the Zoning Board's meeting.

### MINUTES

Upon motion of Joseph B. Rose, duly seconded by James H. McMullan, the minutes of **June 9, 2023**, and **July 14, 2023**, were unanimously approved.

### DETERMINATION

#### **Russell J. DiGate and Norean R. Sharpe – 7 Sherrill Road – SCTM #301-1-4-16**

Upon motion of Joseph B. Rose, duly seconded by John L. McGuirk III, the application of Russell J. DiGate and Norean R. Sharpe, 7 Sherrill Road, SCTM #301-1-4-16, to legalize a slate patio is approved.

John L. McGuirk III – Aye

James H. McMullan – Aye

Philip O'Connell – Aye

Joseph B. Rose – Aye

Andrew Baris – Aye

### SEQR and DETERMINATION

#### **Maidstone Club Inc. – 50 Old Beach Lane – SCTM #301-8-5-22**

Upon motion of Joseph B. Rose, duly seconded by Andrew Baris, the application of Maidstone Club, Inc. for a Special Permit to make structural alterations to an existing building is approved.

John L. McGuirk III – Aye

James H. McMullan – Aye

Philip O'Connell – Aye

Joseph B. Rose – Aye

Andrew Baris – Aye

### DETERMINATION

#### **23 East Dune Lane LLC – 23 East Dune Lane – SCTM #301-9-5-21.4**

Upon motion of Joseph B. Rose, duly seconded by Andrew Baris, the application of 23 East Dune Lane LLC, 23 East Dune Lane, Suffolk County Tax Map #301-9-5-21.4 to construct a patio is approved.

John L. McGuirk III – Aye

Philip O'Connell – Aye  
Andrew Baris – Aye

D E T E R M I N A T I O N

**East Dune Lane Corp. – 27 East Dune Lane – SCTM #301-9-5-21.3**

Upon motion of Philip O'Connell, duly seconded by Andrew Baris, the application of East Dune Lane Corp., 27 East Dune Lane, SCTM #301-9-5-21.3, to install two sculptures is approved.

John L. McGuirk III – Aye  
Philip O'Connell – Aye  
Andrew Baris – Aye

D E T E R M I N A T I O N

**West End Partners II, LLC – 51 West End Road – SCTM #301-15-5-6**

Upon motion of Abigail FitzSimons, duly seconded Andrew Baris, the application of West End Partners II, LLC, 51 West End Road, SCTM #301-15-5-6 to make alterations and renovations and to construct additions to an existing residence is approved.

John L. McGuirk III – Aye  
Philip O'Connell – Aye  
Andrew Baris – Aye  
Abigail FitzSimons – Aye

D E T E R M I N A T I O N

**West End Partners, LLC – 57 West End Road – SCTM #301-15-5-8**

Upon motion of Abigail FitzSimons, duly seconded by Andrew Baris, the application of West End Partners, LLC, 57 West End Road, SCTM #301-15-5-8, to construct an outdoor sauna is approved.

John L. McGuirk III – Aye  
Philip O'Connell – Aye  
Andrew Baris – Aye  
Abigail FitzSimons – Aye

## DETERMINATION

### Peter and Siri Burki – 139 Further Lane – SCTM #301-4-12-6.2

Upon motion of Andrew Baris, duly seconded by Philip O'Connell, the application of Peter and Siri Burki, 139 Further Lane, SCTM #301-4-12-6.2, to construct an addition to an existing residence is approved.

John L. McGuirk III – Aye

James H. McMullan – Aye

Philip O'Connell – Aye

Andrew Baris – Aye

Abigail FitzSimons – Aye

## ADJOURNMENTS

55 La Forest, LLC – 55 La Forest Lane – SCTM #301-12-6-8

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

Skylight East LLC – 94 Apaquogue Road – SCTM #301-12-5-10

Chairman McGuirk noted for the record that there are three adjournments: 55 La Forest, LLC to October 13, 2023; Hunting Hospitality LLC to September 8, 2023; and Skylight East LLC to September 8, 2023.

## ORIGINAL HEARING

### Timothy J. Tynan – 34 Sherrill Road – SCTM #301-1-4-30

Chairman McGuirk called the hearing to order at 11:07 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Timothy J. Tynan, SCTM#301-1-4-30, for an Area Variance from Chapter 278, Zoning, to construct decking and roofed patios that will exceed coverage. A 747 square foot variance is requested from Section 278-3.A.(9)(a) to permit 2,972 square feet of coverage where 2,225 square feet is the maximum permitted coverage. The subject property is 8,624 square feet in area and is located at 34 Sherrill Road in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Alexander Balsam Esq. appeared on behalf of the applicant and submitted photos into the record; no one appeared in opposition. Mr. Balsam



stated that the small patio is to be removed, a deck added to the rear of the house, and a roofed, open-walled structure added off the side of the house. The photos show the existing hedge in the backyard and how you cannot see any of the other neighboring houses from the backyard. The southerly neighbor has a preexisting nonconforming garage that sits up against the property line which will further screen the project and add a barrier between them. The proposed open-walled, one-story addition will be behind the existing façade/footprint of the house so it will not be visible from the road and will have 492 square feet of extra coverage. The structure will not add any bedrooms or any interior space, will not increase the intensity of use but will add a good deal of enjoyment for the Tynans; the family has five children that visit and who like to gather around the swimming pool. Mr. Balsam stated that he does not see the potential for any negative impacts and did not see any opposition letters.

With reference to the standards, Mr. Balsam stated that the proposal will not produce an undesirable change to the character of the neighborhood; after the addition, the house will be comparable to other homes in the area and will not be a detriment to nearby homes. The benefit to the applicant cannot be achieved without the variance; the applicant is looking to increase the enjoyment of his property. In terms of the substantial nature of the variance, it is a 33 percent lot coverage variance which, on its face, sounds substantial but what is proposed is relatively benign in nature. There are no adverse impacts on the physical or environmental conditions in the neighborhood. The alleged difficulty is arguably not self-created; the Tynans purchased the property in 2020, have not changed anything which is a substantial benefit; it would maintain no or zero impact to the neighborhood.

Chairman McGuirk noted that Mr. Hajek has written a memo of review if anyone on the Board has any questions. Member Rose stated that 33 percent sounds substantial because it is substantial and the lot is small. Chairman McGuirk stated that he would like to see the request cut back as it is aggressive.

The hearing will be kept open until the September 8, 2023, meeting.

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ORIGINAL HEARING

Keith L. and Anne Cynar – 58 McGuirk Street – SCTM #301-1-2-13

Chairman McGuirk called the hearing to order at 11:12 a.m., and the Public Notice, as duly published in the East Hampton Star, was read. James H. McMullan has recused.

Application Keith L. and Anne Cynar, SCTM#301-1-2-13, for an Area Variance from Chapter 278, Zoning, to legalize the gross floor area of an existing residence. A 313 square foot gross floor area variance is requested from Section 278-3.A.(13) to legalize the conversion of a carport into an attached garage. The existing gross floor area is 2,784 square feet and the maximum permitted gross floor area is 2,471 square feet. The subject property is 14,712 square feet in area and is located at 58 McGuirk Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Denise Schoen Esq. appeared on behalf of the applicant; no one appeared in opposition. Ms. Schoen stated the applicant is seeking a variance from the gross floor area limitation in order to legalize a carport that was enclosed with a garage door. When the applicants bought the property, it contained two single-family residences and one structure that had two apartments on 14,000 square feet of property. The applicants tried to come up with a renovation plan that would work for their family but throughout that process determined that it would be in their best interest to eliminate the extra units of density and go down to a single-family residence. Ms. Schoen stated that she knows that the Board does not look favorably upon work that has already been accomplished.

The house was designed so that you would think there would be an attached garage but instead there was a hole, an opening in the front and on the side; there was a rear wall and another wall where you entered the house. It is a one-car garage with 377 square feet. After a few seasons of rain and snow, the applicants realized the carport was not such a good idea because it led to rusting of bicycles and they also felt subconscious about the fact that what was in their garage was visible to the entire neighborhood. Chairman McGuirk confirmed that it was bizarre. Ms. Schoen stated that the file contains five or six letters from neighbors in support of the application; the building had

looked unfinished, the building did not look like it fit into the character of the neighborhood, and not what you would normally see in a garage from the street. Exterior and interior photos of the garage were submitted into the record.

Chairman McGuirk asked if the applicant would object to a covenant that the space remain a garage. Ms. Schoen stated that the applicant would not object as there is no intent to convert this to habitable space, it does not need to be conditioned space.

Whether the variance request is substantial, the request is 12 percent. Ms. Schoen submitted into the record copies of prior gross floor area variances granted by the Board; the Vinder variance grant is the most relatable to this project which is a 356 square foot gross floor area variance to expand a house. There will be no additional coverage for the proposed application. It is the minimum variance necessary to afford the applicant relief; there is no way around the GFA variance once the garage door was installed.

Member Rose questioned what year the work was accomplished. Ms. Schoen stated that the original construction was 2016 and it is unknown when the enclosure occurred. Member FitzSimons stated that it was within the last year. Member Rose stated that it was work done without a Building Permit and questioned if the work was done by a local contractor. Ms. Schoen said she did not know. Member Rose stated that by looking at the photos it does not appear to be an intrusion but is concerned that nothing that is done in this case set a precedent for any kind of retroactive tolerance going forward. Village Attorney Perillo stated that the Board will look at the facts of this particular case in making its determination so it should not have an overriding impact or stamp of approval of any kind. Ms. Schoen suggested that the Village Board make carports part of GFA to begin with because they are always going to be part of the house and there is always going to be that desire to close it off.

Village Planner Hajek summarized what has been discussed which is that it is a gross floor area variance to enclose what appeared to be a garage space or a carport. To Board Member Rose's comment, the Code defines gross floor area measuring to the outside of the exterior walls of a building. The Village has had situations where clever designs enclose large portions of space but are

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not necessarily completely finished. Then the thought is well maybe they are going to come back in for a variance to simply put in windows or take out the screens and replace them with permanent windows or in this case add a garage door. Right now, the Code does not necessarily address the issue, it is more of a discretion situation in the Building Department. It is a 12 percent variance request; in similar situations the Board has required covenants which reinforce that the garage space shall always be used as a garage and not converted to livable or habitable space. In this case, the expansion does not trigger the need for a septic upgrade, it is a 12 percent expansion of the floor area where 25 percent would actually necessitate the need for a septic upgrade.

Upon motion of Joseph B. Rose, duly second by Abigail FitzSimons, the Board unanimously closed the Public Hearing.

#### ORIGINAL HEARING

#### Susan L. Shuman Family Trust – 11 Jericho Close Road – SCTM #301-7-5-12

Chairman McGuirk called the hearing to order at 11:27 a.m., and the Public Notice, as duly published in the East Hampton Star, was read. John L. McGuirk III has recused.

Application of Susan L. Shuman Family Trust, SCTM#301-7-5-12, for Area Variances from Chapter 278, Zoning, to legalize pool equipment. Variances of 12.1 feet and 3.1 feet are required from Section 278-3.A.(5)(c) to legalize swimming pool equipment located 27.9 feet from a side yard lot line and 36.9 feet from a rear yard lot line where the required setbacks are 40 feet. The subject property is 43,196 square feet in area and is located at 11 Jericho Close Road in Residence District R-80. This project is classified as a Type II Action in accordance with SEQR.

Katy Frank appeared on behalf of the applicant; no additional material was submitted into the record; no one appeared in opposition. Ms. Frank stated that she is also joined by Charles Gallanti who is the builder on the project. The applicant recently renovated their house and moved the pool equipment from one nonconforming location to a different nonconforming location; the request is for two separate variances, one for 12.15 feet and one for 3.1 feet. Going through the balancing factors, Ms. Frank stated that she

believes that no undesirable change will be produced in the character of the neighborhood; the pool equipment will not be visible from neighboring parcels or the road due to the vegetation. Whether the benefit can be sought by some other method; the applicant does not believe so because of the strict nature of the setbacks. It is really hard to locate the pool equipment within those setbacks. The variance is not substantial. In fact, the pool equipment will be brought into further conformance on one of the property lines even though it is being moved closer to the other. Whether the variance will have an adverse effect on the environment. The pool equipment was already existing on the premises in a nonconforming location which is being moved to a slightly other nonconforming location. Whether the alleged difficulty was self-created. In a sense it was but the owner was unaware of the double setback for pool equipment which is how it ended up getting built in that location. Member Rose pointed out that it is self-created. Ms. Frank agreed.

Vice Chairman McMullan stated that after visiting the site, he did not find an effect on the neighbors' property; the pool equipment is enclosed, it is behind the garage, and there have been no letters received in opposition.

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

#### ORIGINAL HEARING

#### John McAneny and Meredith McNaughton – 31 Sherrill Road – SCTM #301-1-4-22

Chairman McGuirk called the hearing to order at 11:31 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of John McAneny and Meredith McNaughton, SCTM#301-1-4-22, for Area Variances from Chapter 278, Zoning, to legalize a slate patio and construct a new patio that exceeds coverage. Variances of approximately 9 feet and 5 feet are requested from Sections 278-3.A.(5)(a) and (b) to legalize a slate patio located 26 feet from the front yard lot line and 5 feet from a side yard lot line where the required front yard setback is 35 feet and the required side yard setback is 10 feet. A 488 square foot variance is requested from Section 278-3.A.(9)(a) to permit 2,777 square feet of coverage where 2,289 square feet is

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the maximum permitted coverage. The subject property is 8,945 square feet in area and is located at 31 Sherrill Road in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Meredith McNaughton, 31 Sherrill 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. Ms. McNaughton stated that she and her husband purchased the property in 2021 which had stepping stones, as outlined on the survey, both in the front and in the backyard. The intent is to seek legalization of the stepping stones that are in the front yard and then to essentially make it a continuous area of stone in the backyard where she can place her outdoor furniture on a solid surface. Currently the dining room table and chairs sink into the grass, and because it is grass, every summer the grass dies and becomes muddy. Vice Chairman McMullan asked Ms. McNaughton if she intends to expand the pergola. Ms. McNaughton said no. Member Rose noted that this is not work that has been accomplished. Ms. McNaughton agreed. Member Rose thanked Ms. McNaughton.

Upon motion of James H. McMullan, duly seconded by Joseph B. Rose, the Board unanimously closed the Public Hearing.

#### CONTINUED HEARING

#### Mark K. Webb – 123 Egypt Lane – SCTM #301-9-1-6

The Chairman called the continued hearing to order at 11:33 a.m. and stated that the Board has received a memorandum from Village Planner Billy Hajek, dated August 9, 2023, with reference to the revised revegetation plan dated July 27, 2023.

Member O'Connell stated that with reference to the non-compliance of prior variance conditions, he would like to see a condition that the Village has the right to inspect once a year, and, if the Building Inspector finds the area has been over-cleared, at the owner's cost and expense, a survey of the clearing and the calculations would be required. Village Attorney Perillo asked Mr. Crouch if the applicant would agree to that. Mr. Crouch stated that he did not think that would be a problem. Member Rose stated that he wants to underscore the point which is that the Board expects the plan to be adhered to



and not just be done cosmetically once and then revert to the previous condition. Member O'Connell added that it is much different when an applicant comes to the Board with clean hands than having violated a condition.

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

CONTINUED HEARING

Jewish Center of the Hamptons – 44 Woods Lane – SCTM #301-8-7-46

Vice Chairman McMullan called the continued hearing to order at 11:35 a.m.

Alexander Balsam Esq. stated that he will take a few comments, as will Richard Dattner and Rabbi Josh Franklin, to speak. Mr. Balsam stated that he is happy to report that SoundSense and Crescendo, working together, have designed and spec'ed out a mutually agreeable amplification system for the pavilion pursuant to his August 4, 2023, letter (Mr. Balsam submitted two letters dated August 4, 2023, one of which set forth the updated specifications for the speaker amplification system, accompanied by a Lighting & Speakers Plan & Section, and the other letter restated and clarified a number of points presented at the prior meeting). Mr. Balsam stated that Crescendo will have sole access and ability to adjust the speaker levels, and if these levels ever have to be adjusted, they will not be adjusted beyond the levels set forth in his letter or the proposal, however, the applicant does not agree with the third and final point of Ms. McWilliams' letter which is having a C.O. be conditioned on SoundSense's approval or certification that the limiter setting and the procedures follow the terms of the proposal. Giving an objector's agent this sort of power would be unprecedented and likely not permissible; it is not kosher to give the objector's agent the ability to stop the issuance of a C.O. by making their consent a firm prerequisite to the issuance of a C.O. Instead, what is proposed is to have SoundSense be a part of the consult process, to allow SoundSense to conduct its own readings, and to submit its own findings to the Village prior to the C.O. being issued. If SoundSense has an issue with any of the process or the results, they are being invited to submit those findings to the Village, and the Village will have further inquiries and the like prior to the

issuance of the C.O. but it is ultimately up to the Village to determine if the applicant has met the criteria or if further work needs to be done.

With reference to special events, Mr. Balsam stated that the applicant is not comfortable with proposing a limit on the number of special events. There are certainly a handful of neighbors that would be within potential earshot of a special event if that event had additional or alternate amplification. All the neighbors would be able to have the same type of special event that they are concerned about but they do not have a cap on the number of events. Mr. Balsam stated that he understands the neighbors do not have an outdoor pavilion, but they are one tent rental away from having an equally beautiful setting for such an event. The Jewish Center is obviously a nice spot, so is every other yard in the neighborhood, and probably many of the properties of the Jewish Center's members are arguably more attractive properties for a one-off celebratory event and be more appropriate than a house or worship. There is no limit on the number of events that can occur in the neighborhood, nor should there be, and, likewise, there should be no cap on the number of events at the Jewish Center. If an event is classified as a religious ceremony, it would be exempt from the Special Event Permit requirement; the applicant does not want to argue the point down the road with the Village as to whether an event is religious or not but if there is no cap, the Jewish Center does not care how it is classified and will file a permit when there is room for interpretation. Events at the Jewish Center with a trio or quartet who could have their own amplification system specific to their instruments and it is not reasonably expected to exceed the output of the pavilion's in-house system, the Jewish Center would not want an event like that to count against a limit. Mr. Balsam stated that he is concerned with definitions, concerned with interpretations, and concerned with good intentions because as years go by and different people occupy the neighboring houses, it is a real possibility that someone would seek to use a cap or a limit against the events that are otherwise completely harmonious. The neighbors do have other protections other than a hard cap on the number of events. As you know, the Jewish Center is committing to applying for a Special Event Permit for any non-religious event at the pavilion involving amplification other than the permanent amplification; obviously if special events at the pavilion developed a track record of being unreasonably burdensome to the neighborhood, the Jewish Center fully expects that a permit would be denied. The Jewish Center has agreed to notify



the neighbors by email whenever a Special Event Permit application is filed for an event at the pavilion, and some of the neighbors have the Rabbi's phone number; the Village has a zero tolerance policy for noise after 11:00 p.m. and the Jewish Center does have a policy that any celebratory event for a wedding or a bar mitzvah has to be accompanied by a corresponding religious service at the Jewish Center. The Jewish Center has historically done very few of these weddings at the premises; there were zero on-site wedding ceremonies at the Jewish Center in 2022. Given the difficulty and expense of finding accommodations for a large amount of guests during the season, there are not a lot of large weddings out here in the season. The property does not contain a commercial kitchen, so it is very difficult to serve any sort of extensive meal. The space is not designed or intended for a lot of parties, it is a place of worship and learning, there is every incentive to be good stewards, and if it turns out to be more burdensome than presented, then the Village will deny the Special Event Permit.

With reference to the Village's EAF, Mr. Balsam stated that the applicant has the right to have and apply for special events, the EAF does not need to address potential one-off events that are already a possibility on the site and which events have their own separate approval process through this Special Event Permit application. One-off events that would amount to mere hours a year at most could fall into the category of sporadic as that term is used in the definition of a moderate to large impact in the DEC workbook. The relevant section of the DEC workbook that the objectors have referenced talks about, sources of noise coming from fixed or mobile equipment or process operations or the transportation of products, raw material or waste. Noise generating equipment can include a very wide range of equipment including generators, pumps, compressors, crushers of plastic, stone or metal, grinders, screens, conveyors, storage bins or electrical equipment. Mobile operations may include drilling, haulage, pug mills, mobile treatment units, and service operations. Transport movements may include truck traffic within the operation, loading and unloading trucks and movement in and out of the facility. Any or all of these activities may be in operation at any one time. Mr. Balsam stated that this is not an applicable analysis. The same workbook section goes on to define moderate to large impacts, specifically asks where the noise levels above ambient conditions will be produced long term. Obviously, that is not the case here. The analysis in the DEC workbook goes on to ask how long will the noise

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last and what type of noise it is. Mr. Balsam stated that after this analysis breakdown, the workbook talks about blasting activities. The current use of the property has been referred to by the objectors, multiple times throughout the past months, as being nonconforming which is not accurate. Use as a religious institution is allowed subject to, of course, a Special Permit which is much different than something being a nonconforming use. The Jewish Center has been in operation here since 1960, the Special Permit is an oversight process for an otherwise allowed use in the district and has nothing to do with nonconforming uses. Mr. Balsam stated that he is going to ask Richard Dattner to talk about lighting.

Member O'Connell asked for clarification if the pavilion's amplification system will be the only amplification system used for an event at the pavilion. Mr. Balsam clarified that if the Jewish Center were to use a different amplification system and the event is not religious, the Jewish Center will come to the Village with a Special Event Permit application. Member O'Connell stated that during the first hearing the Rabbi said the reason for the pavilion, the Jewish Center put together a committee during or after the pandemic, saying okay this is not going to be the last pandemic type of event, we need a place for people to worship and possibly have some talks and educational events. If that was the intent of the pavilion and the intent of the Committee to limit any use of the pavilion's amplification system that has been worked out in terms of sound levels. Mr. Balsam stated that all the reasons stated are the reasons why the applicant would not agree with that, everyone knows the primary use and the intention and how this pavilion came about. Similar to when someone builds a single-family residence and they intend to live in that residence and that is the primary use, they can put up a tent, they can file for a permit, they can have a party. Member O'Connell stated that he is not saying the Jewish Center cannot file for limited special events; if the Jewish Center has a special event, you file with the Village, you put up a tent for a wedding, bar mitzvah, etc. there is nothing preventing the Jewish Center from doing that in the future. Mr. Balsam stated that anyone else in the Village can have an amplification system that is louder than what is being constructed in the pavilion, and the Jewish Center is not interested in waiving that right.

Richard Dattner, 180 Cabrini Boulevard, New York, New York, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but

the truth. Mr. Dattner, referencing the neighbors worried about lighting, submitted into the record technical drawings of the proposed lighting. Mr. Dattner also shared with the Board an aerial photograph, submitted into the record, depicting the location of the Jewish Center property, with an inserted image of the proposed pavilion, the objecting neighbors on Borden Lane, the two properties that abut the Jewish Center, one of which is the Rabbi's residence, another adjoining residence for which there is a letter of support, and the three objecting houses with lovely houses; he was surprised by their fear of being literally blinded by the light from the pavilion. Mr. Dattner stated that he drove on Borden Lane in the daytime and at night and discovered a beautiful street with a forest surrounding it but that he could not figure out where the Jewish Center was as it is so sheltered. Another submission by Mr. Dattner is a cross section to scale 1" = 20' from sanctuary, which is about twice the height of the proposed pavilion, the pavilion at its peak is 20 feet in height, and then stepping out 50 feet from the edge of the pavilion, is the property line; the measurements are 100 feet to the Rabbi's driveway, 200 feet to the Rabbi's house, and Borden Lane is about 300 feet with houses and pools at the back. With reference to the light in the summertime, Mr. Dattner stated that you cannot even see the property from their property. In the wintertime when the leaves are down, the pavilion is not going to be used on a winter night so the neighbors do not really have to worry about the light. The three neighbors' houses on Borden Lane are literally on top of each other, they all have swimming pools, perhaps 50 feet apart at their closest point, and one is 80 or 90 feet apart, and in the summertime when you hear the happy noise of grandkids in the pool, that noise level is going to be considerably higher than whatever is going on at the pavilion.

Rabbi Joshua Franklin, 50 Woods Lane, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. Rabbi Franklin stated that the Jewish Center of the Hamptons, its Members, and its Clergy have strived over the years to serve the East Hampton community and have come a long way since its founding in 1958, and has overcome adversity and discrimination in the community from having land covenants that barred the sale of property to Jews, to opposition of the very founding of the Jewish Center because of opposition to Jewish presence in East Hampton. Rabbi Franklin stated that he thought these were vestiges of the past, but it is not, it just comes in different forms. Jew hatred and discrimination is hardly ever out

in the open, it is couched in subtle language or perhaps people might not realize the offensive nature of their comments; they think what they say is either benign or perhaps even justified. Hatred is hatred and Rabbi Franklin stated that he hopes that everyone would agree that it does not belong here in the East Hampton community. The Jewish Center has been respectful toward their neighbors and does not disturb the character of the surroundings. Rabbi Franklin stated that from the beginning, the Jewish Center's plans have been mindful of the sound that they produce, and they have satisfied concern after concern, bending over backwards to keep everyone happy. There have been conversations in good faith and then the Jewish Center received a copy of a letter sent to the ZBA on July 16<sup>th</sup> from neighbors which was presented as thinly veiled antisemitism; many of those who saw the letter have felt severely disappointed and even disgusted. Rabbi Franklin explained that the letter is offensive because of the mischaracterization of Jewish activities and the Jewish Center of the Hamptons. Rabbi Franklin stated that it is disturbing how the writer of the letter lumps the activities of Chabad of the Hamptons, another Jewish house of worship, together with the Jewish Center to describe problems caused in the neighborhood. The problems alleged had less to do with specific activities and more to do with Jewish activities. Rabbi Franklin stated that he cares little that Jewish weddings were mischaracterized as occurring mostly on Sundays and more that they were described as traditionally large, elaborate affairs that include most of the community. It is not only a mischaracterization, but it perpetuates a stereotype that portrays Jewish people as ostentatious, showy, or excessively focused on wealth and material displays. The stereotype has its roots and historical prejudices and negative stereotypes that have commonly been used to target and discriminate against Jewish communities. Using such language reenforces harmful generalizations about Jewish people suggesting that the cultural practices are somehow excessive or extravagant in a negative way. It contributes to the broader narrative of portraying Jewish individuals as different or has been a common tactic in various forms of discrimination and persecutions throughout history. Rabbi Franklin stated that it mattered little that the author tried to defame their veiled Jew hatred by saying "These events were always lots of fun, delightfully celebratory." We take offense to "not in a quiet residential community" and if you are still not seeing it then I suggest that you go re-read the letter and replace the word Jewish with black and see how it reads. Rabbi Franklin noted the letter in support of the pavilion by the entire East Hampton Clericus, our local body of

interfaith Clergy in East Hampton and you will understand that we serve the East Hampton community far beyond our members, far beyond the Jewish community, we serve East Hampton. Those signatories will tell you that every house of worship is in a quiet residential community in East Hampton. The Jewish Center has been in existence for over 60 years and is not asking for partiality but asking to be fairly treated.

Jameson McWilliams Esq., appearing on behalf of Debbie Buell and Charles Henry and Madelaine Haberman and Michael Sprung, stated that she did not write the letter referred to by Rabbi Franklin. She stated the reason she is present is to continue to be good neighbors and hopefully not be in the position of down the line having to call the police or code enforcement. There has been a lot of work accomplished behind the scenes, all in good faith, and there have been very productive conversations. Mike Brody from Crescendo has been working with the neighbors' SoundSense people and it seems like there has been progress. A substantial agreement has been reached pursuant to Alex Balsam's letter dated August 4, 2023, and in her letter dated August 7, 2023, referencing the SoundSense acoustic memo dated August 2, 2023. The Jewish Center does not want those same limits to apply in the case of non-religious special events, rather they want to have the right to seek an unlimited number of special events by applying for the Special Event Permit under Section 139 on an ongoing basis. Ms. McWilliams stated that she believes the Board should disallow the use of the proposed pavilion for non-religious special events, including parties or receptions after religious services, and the use of amplification other than the agreed upon installed system and should limit the applicant to a set number of such special events; suggested is one non-religious special event in the high season between the start of Memorial Day weekend through Labor Day and two such events the remainder of the calendar year.

Ms. McWilliams stated that the issue before the Board today is not special event permits but the Special Permit use for the construction of the pavilion under Chapter 278. The neighboring properties, which are residential uses in a residentially zoned neighborhood, do not require Special Permits to exist in that neighborhood which is the distinction. The standard, whether the proposed use, not the intention of the use, the proposed use is an unlimited number of non-religious special events with unrestricted amplification, will generate disturbing noise. Under Special Permit Chapter 278-7.D.(3)(e), the Board shall consider noise whether the proposed use will cause disturbing emissions of electrical discharges, dust, light, vibration or noise. Without a Special Permit authorizing



the proposed use under the first instance, there would be no basis for the issuance of a Special Event Permit. The record is clear, based on memos from SoundSense, that sound generated by amplification in the pavilion, beyond the limited amplified system, would be disturbing. The neighbors do not want to be in that position and would like to work it out now. The traffic has not been addressed for special events. With reference to SEQR, if the Board were considering the totality of the proposed uses and found that it was a moderate effect, that would change the overall outcome of the SEQR. If there is no limit, there is really no understanding if it would be a sporadic use or not.

Member O'Connell stated that with no pavilion built, the Jewish Center could have an unlimited number of special events with a band and a DJ provided that the Village issues the Special Event Permit, and they could put a tent right where the pavilion is proposed. Ms. McWilliams stated that that is correct, and the neighbors would have no protection in the Code. Ms. McWilliams stated that the Noise Code Section does not provide a number, which would be helpful if it did, read that the following acts are declared to be loud, disturbing and unnecessary noises in violation of this Chapter as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated. A band or a DJ with a sound system that is not limited seems to fit the disturbing noise of the Chapter. The Special Events Permit does allow, with permission of the Village, to go beyond that but the Zoning Board's obligation is to grant the Special Permit under 278 which additionally asks you to look at disturbing noise and whether the proposed use would create a disturbing noise.

Member O'Connell asked Village Attorney Perillo if she has enough information for a determination. Village Attorney Perillo stated that the applicant and the neighbors have come up with an agreement among themselves, and questioned whether it is a private agreement or will that be included as a condition of the determination. Member O'Connell stated that the agreement should be included. Village Attorney Perillo stated that the agreement must be submitted into the record, both sides, this is the agreement, and this is what is being consented to, in final form, and will be used as a covenant that is part of the decision if there is a conditional decision. Mr. Balsam stated that the parameters set forth in his August 4, 2023, letter is what the applicant is proposing. Whether there has been an agreement is irrelevant, what is relevant is that the applicant has proposed specific limits, representing to the Board that these limits were arrived at in consultation with SoundSense and the proposed

parameters set forth in his August 4, 2023 letter. Member O'Connell stated that the technical steps have been agreed to. Mr. Balsam said yes. Village Attorney Perillo asked that it be submitted in final form. Vice Chairman McMullan suggested that one letter that is signed off by Mr. Balsam and Ms. McWilliams be submitted to the Board; Village Attorney Perillo added that it should be a joint letter. Mr. Balsam and Ms. McWilliams agreed.

Vice Chairman McMullan asked for clarification with reference to the request that both sound companies sign off before a Certificate of Occupancy is issued. Mr. Balsam stated that he proposed in his August 4, 2023 letter that SoundSense will be part of the whole install process, the limiter test setup, the testing afterwards, they will be there lockstep with Crescendo, and the two businesses will have five days to submit their findings separately to the Village. Mr. Balsam stated that he wants the Village and their staff to say we have received these two letters, SoundSense is presenting an issue to us, let us address it or not, depending upon the issue, and depending upon how the Village wants to proceed but it would be wrong to have SoundSense to be able to give a green light for a C.O. Vice Chairman McMullan stated that the Board is not asking to do that. Village Attorney Perillo agreed and stated that the Village decides whether a C.O. is issued. Member O'Connell stated that the Board is looking for a joint statement as to actual specifications, not the mechanics. Village Attorney Perillo stated that there has been agreement on the specifications. Ms. McWilliams stated that this is not just specifications, it is procedure, and if the applicant is agreeing to the neighbors' side being involved in the procedure, if then there is an issue at the end, the neighbors' side is not agreeing. Vice Chairman McMullan stated that that falls on the Building Department. Village Attorney Perillo stated that there are civil remedies if there is an issue with the neighbor.

Member O'Connell asked Village Planner Hajek about SEQR and the agreement. Village Planner Hajek stated that he referenced the letter submitted by Alex Balsam on behalf of the applicant as the mitigation measures that are being offered by the applicant; those mitigation measures could be conditions of approval. Mr. Balsam stated that the current friendly exchange shows the difficulty of submitting a joint letter but that he is happy to reach out to Ms. McWilliams to draft something that will mirror his August 4<sup>th</sup> provisions. Mr. Balsam stated that he does not understand why it has to be memorialized as an agreement with the neighbors; yes, the applicant worked with the neighbors and came up with specifications that are good to which the neighbors will agree but it is the applicant coming to the Board saying here is what is being proposed,

here are the parameters being set on the project. Village Attorney Perillo stated that she heard earlier that SoundSense and Crescendo had worked together and agreed to parameters and that is what should be submitted.

Bonnie Schnitta, 39 Industrial Road, Wainscott, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. Ms. Schnitta stated that as a member of the community and with years of experience, her greatest pleasure is to allow two separate entities to do what they want to do and not disturb the other. Ms. Schnitta stated that part of the procedure says both the AV (audio/video) consultant and SoundSense will submit a written report; the final decision is with the Board in the pure sense and with the information that is in writing, the Board will be able to look at that. She is pleased that the Jewish Center with Mike Brody and the neighbors with SoundSense have come to an agreement which is a wonderful thing. The Jewish Center can turn on their speakers and not disturb the neighbors; granted the disturbance was measured during daytime in terms of what is ambient, the neighbors said that that was fine because nighttime is about 5 dB lower. Ms. Schnitta stated that this has come to a really beautiful spot as long as the speakers are used but the outstanding issue is special events that do not include the speaker system.

Michael Sprung, 24 Borden Lane, East Hampton, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. Mr. Sprung stated that he attended good faith meetings with Rabbi Franklin as compromise was sought. Noise coming from the pavilion is a legitimate concern and has nothing to do with antisemitism. Mr. Sprung stated that he is Jewish and belongs to a synagogue with his family; his cousin is the past president of the New York Board of Rabbis, Charles Klein. Mr. Sprung stated that he would like an expansion of Jewish and religious services especially with the rise in antisemitism and questioned why it cannot be agreed that the Jewish Center use only the newly installed sound system for all of their wonderful Jewish events.

Robert Petrozzo, 20 Woods Lane, East Hampton, New York, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing by the truth. Mr. Petrozzo stated that he is troubled after hearing the Rabbi speak of antisemitism and hatred because this is definitely not what this is about. Mr. Petrozzo stated that he has lived next to the Jewish Center for over 20 years and never had an issue with any religious service and everyone should practice



whatever religion they like and that he has his own spiritual practice. The issue is that the Jewish Center does not want to agree to a specific number of special events which actually fall outside of that decibel level that was agreed upon for the religious services, and the pavilion is in the middle of a residential area and is an open pavilion which leads him to believe that most events will happen during the season when it is warm. Mr. Petrozzo stated that Member O'Connell pointed out that the Jewish Center can have as many special events right now, however, the Jewish Center would have to put up a tent, it would not be as easy, but the pavilion would be more appealing; if he was a congregant, now that there is a pavilion, he would want to have that special events there. With respect to Mr. Balsam saying that the neighbors can have special events, Mr. Petrozzo stated that he does not believe there is the potential for neighbors to have as many special events because he does not have hundreds of family members like the Jewish Center has hundreds of family congregants that may want to have an event at the Jewish Center. Common sense says it is going to create more traffic, more noise, and a safety issue with the traffic. Mr. Petrozzo stated that the neighbors are asking for a cap on the number of special events that will take place as a good neighbor and respectfully asks the Board to put some type of limit on the number of special events that can happen especially during the season of Memorial Day through Labor Day.

Vice Chairman McMullan stated that he would like to close the hearing subject to the submission of the agreed upon specifications and asked for an acceptable time limit. Village Attorney Perillo asked how much time is needed, suggesting two weeks. Mr. Balsam and Ms. McWilliams agreed that two weeks is adequate. Vice Chairman McMullan closed the hearing and polled the Board to close the hearing.

Member O'Connell – Aye

Member Baris – Aye

Member FitzSimons – Aye

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Upon motion of Member O'Connell, duly seconded by Andrew Baris, the Board unanimously resolved to close the meeting at 12:36 p.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 LTV Studios, 75 Industrial Road, Wainscott, New York, on Friday, August 11, 2023, at 11:00 a.m. 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](http://easthamptonvillage.org) by clicking on the "Public Board Meetings" tab.

Application of John McAneny and Meredith McNaughton, SCTM#301-1-4-22, for Area Variances from Chapter 278, Zoning, to legalize a slate patio and construct a new patio that exceeds coverage. Variances of approximately 9 feet and 5 feet are requested from Sections 278-3.A.(5)(a) and (b) to legalize a slate patio located 26 feet from the front yard lot line and 5 feet from a side yard lot line where the required front yard setback is 35 feet and the required side yard setback is 10 feet. A 488 square foot variance is requested from Section 278-3.A.(9)(a) to permit 2,777 square feet of coverage where 2,289 square feet is the maximum permitted coverage. The subject property is 8,945 square feet in area and is located at 31 Sherrill Road in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Timothy J. Tynan, SCTM#301-1-4-30, for an Area Variance from Chapter 278, Zoning, to construct decking and roofed patios that will exceed coverage. A 747 square foot variance

is requested from Section 278-3.A.(9)(a) to permit 2,972 square feet of coverage where 2,225 square feet is the maximum permitted coverage. The subject property is 8,624 square feet in area and is located at 34 Sherrill Road in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of 55 La Forest, LLC, SCTM#301-12-6-8, for a Variance from Chapter 278, Zoning, to make alterations and expand a preexisting third story. A variance is requested from Section 278-2.B.(1) to make alterations and enlarge a preexisting third story by 53 square feet where two stories are the maximum number of stories permitted. The subject property is 39,951 square feet in area and is located at 55 La Forest Lane in Residence District R-160. This project is classified as a Type II Action in accordance with SEQR.

Application Keith L. and Anne Cynar, SCTM#301-1-2-13, for an Area Variance from Chapter 278, Zoning, to legalize the gross floor area of an existing residence. A 313 square foot gross floor area variance is requested from Section 278-3.A.(13) to legalize the conversion of a carport into an attached garage. The existing gross floor area is 2,784 square feet and the maximum permitted gross floor area is 2,471 square feet. The subject property is 14,712 square feet in area and is located at 58 McGuirk Street in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of Susan L. Shuman Family Trust, SCTM#301-7-5-12, for Area Variances from

Chapter 278, Zoning, to legalize pool equipment. Variances of 12.1 feet and 3.1 feet are required from Section 278-3.A.(5)(c) to legalize swimming pool equipment located 27.9 feet from a side yard lot line and 36.9 feet from a rear yard lot line where the required setbacks are 40 feet. The subject property is 43,196 square feet in area and is located at 11 Jericho Close Road in Residence District R-80. 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: July 21, 2023

By Order of John L. McGuirk III, Chairman  
Zoning Board of Appeals, Inc. Village of East Hampton  
3-2/163

FILED  
VILLAGE OF EAST HAMPTON, NY

DATE: 10/16/23

TIME: 11:13 AM

*Patricia J. Bennett*