

Zoning Board of Appeals
December 9, 2022
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
Vincent J. Messina Jr., Village Attorney
Billy Hajek, Village Planner
Thomas Preiato, Village Building Inspector
Eric Bregman, Attorney on behalf of Hamptons Residence LLC
Leonard I. Ackerman, Attorney on behalf of Maxamus LLC, Traumhaus 1, LLC,
and Traumhaus 2, LLC
Jeffrey L. Bragman, Attorney on Katharine Rayner
Lisa Seff, Applicant
Trevor Darrell, Attorney on behalf of Eric and Lori Blatstein and Little Plain
Homeowners Association, Inc.
John Huber, Attorney on behalf of 33 GB LLC and The Rosey LLC
Ernest Schieferstein, Architect on behalf of 33 GB LLC
Pamela Pospisil, Architect on behalf of The Rosery LLC
John Pakutcheo, Attorney/Friend on behalf of Karel de Boer
Jonathan Tarbet, Attorney on behalf of Buck Properties, LLC
Christopher Kelley, Attorney on behalf of 26 West End Road, LLC
Jody Gambino, LTV Moderator
Pamela J. Bennett, Village Clerk

C O N G R A T U L A T I O N S

Chairman McGuirk congratulated Village Attorney Vincent Messina on his recent election as the Suffolk County's Surrogate Court Judge and wished him well.

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W E L C O M E

Chairman McGuirk welcomed new alternate member Abigail Lamb FitzSimons to the Board.

M I N U T E S

Upon motion of James H. McMullan, duly seconded by Philip O'Connell, the Board unanimously approved the minutes of October 14, 2022.

A D J O U R N M E N T R E Q U E S T

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

The Board is in receipt of a request to adjourn this application until the January 13, 2023 meeting.

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

Maxamus LLC – 54 Georgica Close Road – SCTM #301-7-3-7

Upon motion of James H. McMullan, duly seconded by Philip O'Connell, the request to raze an existing residence and to construct a new single-family residence is approved. The Board voted as follows:

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

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

Steven and Deborah Shapiro – 16 Terbell Lane – SCTM #301-13-10-9

Upon motion of James H. McMullan, duly seconded by Philip O'Connell, the request to construct additions to a preexisting nonconforming residence 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

Edward and Margot J. Levy – 321 Georgica Road – SCTM #301-7-5-1.13

Upon motion of James H. McMullan, duly seconded by Philip O’Connell, the request to construct additions to an existing residence is approved. The Board voted as follows:

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

CONTINUED HEARING

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

Chairman McGuirk called the continued hearing to order at 11:04 a.m.

Eric Bregman Esq. appeared on behalf of the applicant; no one appeared in opposition. Mr. Bregman submitted to the Board photos, which were previously submitted via email, and stated that the key issues are the gazebo, the patio on the dune, and the fence. The gazebo has no adverse impact whatsoever on the dune which patio has been in existence for 16 years; Dr. Bokuniewicz from Stony Brook says that the gazebo in no way diminishes the natural protective feature which is the dune, that there are no deep pilings, and that there is no excavation. The gazebo is safe from flood and erosion because it is above FEMA height requirements. With reference to the zoning variances, does the gazebo have an adverse impact on the neighborhood or a change in the neighborhood that adversely impacts the neighbors. There has not been a single neighbor who has complained about the gazebo. The gazebo is entirely consistent with the placement of other houses, other gazebos, swimming pools, etc. Mr. Bregman reviewed the photos submitted with the application noting that you can see the gazebo but it is not overwhelming, it is not a problem with the neighbors, and it is totally consistent. The photos show that houses, outbuildings and fences are typical and consistent with the applicant’s property. The concern expressed in the Village Planner’s report was that the fence in front of the applicant’s house is halfway up the dune and not

typical; the photos show it is typical; all of these houses have fences, most of them halfway up the dune. The Board has to find there is an undesirable change in the neighborhood or the character of the neighborhood or a detriment to nearby properties in order to deny the application. Mr. Bregman stated that there is no evidence to deny the application; there are no complaints, it has been there for 16 years, and a neighbor has written in support. The fence and the gazebo are totally consistent with the neighborhood.

With reference to the standard of a feasible alternative; there is not for both the fence and the gazebo. If you are going to have a gazebo with an ocean view, it has to be where it is, it cannot be on the other side of the house. If you are going to have a fence that is acting as a deer fence to keep the deer from coming up the dune, you must have it where it is.

Mr. Bregman stated that with reference to the removal of the patio and the revegetation of where the patio was, which was considered a meadow and turned into lawn, the short answer is yes, it will be done.

Mr. Bregman stated that what is referred to as a bin is really not a bin, it is a metal box on a post/pole. What it is and what it has been used for in the past is for electricity and for telephone connections; Mr. Icahn used to sit in the area where the patio is but where you will not be able to sit anymore. The proposal is to be able to keep the metal box so he can sit on the lawn, put a chair on the lawn, and to be able to connect to his electricity and to his telephone. Mr. Bregman stated that there is no environmental impact on the dune, no increase in density.

With reference to Mr. Bregman's statement that the gazebo has been situated in place for 16 years, Member Rose stated that the 2008 survey submitted with the application does not show the gazebo. Mr. Bregman stated that the aerial from 2007 shows the gazebo.

Village Attorney Messina asked Mr. Bregman if it is his argument that, notwithstanding the gazebo was built without a permit, when you apply the variance criteria, the majority of the factors go your way, is that not what is being argued. Mr. Bregman agreed. Chairman McGuirk asked how the Board

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votes on such an application with five different issues. Village Attorney Messina stated that it is a balancing of each of the five factors; they must be examined, come to findings with respect to each one of them, which is done with every decision, and, for example, three of the five go in favor of the applicant, it would have to be granted. Clearly here there are only four factors at play, the applicant's Counsel concedes that it was a self-created hardship. It used to be the law at one time in the State that the self-created hardship was enough to defeat the application in and of itself which is not the case anymore as the statute has changed, therefore, an analysis of the four remaining factors must be undergone and the Board will make a decision.

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

CONTINUED HEARING

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

Upon motion of James H. McMullan, duly seconded by Joseph B. Rose, the Board unanimously resolved to close the Public Hearing. A determination will be rendered at the Board's January meeting.

CONTINUED HEARINGS

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

Leonard I. Ackerman Esq. appeared on behalf of the applicants and requested that the hearings be closed, noting that Jeffrey L. Bragman Esq., representing the neighbor, would like to address the Board. Village Attorney Messina clarified that the record was to be kept open for comments during that period and then the Board was to close today; the Board can reconsider that if it wishes.

Jeffrey L. Bragman Esq. thanked the Board for permitting the adjournments which gave him the time to review the file and the history more carefully and to have a free and frank exchange with the applicant and that they are working cooperatively.

Upon motion of Philip O'Connell, duly seconded by James H. McMullan, the Board unanimously resolved to close the Public Hearings.

DETERMINATION

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

Lisa Seff appeared to question why the Board has not issued their determination. Village Attorney Messina stated that the application will be ready for a decision in January.

CONTINUED HEARING

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

Chairman McGuirk called the hearing to order at 11:33 a.m. Since the applicant's attorney was not present, Village Planner Hajek offered to provide a summary. Mr. Hajek stated that at the last meeting it was unclear as to whether the sound mitigation had been installed or not, which it had not been. The applicant's representative submitted a letter dated November 8, 2022 outlining that the air conditioning units and other facilities will be enclosed on three sides with a six-foot high sound attenuation, double stockade fence.

Upon James H. McMullan, duly seconded by Joseph B. Rose, the Board unanimously resolved to close the Public Hearing.

CONTINUED HEARING

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

Chairman McGuirk called the hearing to order at 11:35 a.m.

Trevor Darrell Esq. appeared on behalf of the applicant; no additional information was submitted into the record; no one appeared in opposition. Mr. Darrell stated that this application was adjourned for the submission of a landscape plan with reference to the proposed garage. There is an existing hedge which is trimmed consistently each year which the applicant can let grow and trees are proposed for additional coverage.

Member Rose asked Mr. Darrell to reiterate why the proposed garage cannot be moved farther away from the fence to mitigate the visual impact from the parking lot. Mr. Darrell stated that there were a couple of different reasons why the proposed location is where it is; a structure already exists in that location, the area is already disturbed, and the area where the driveway ends and where the proposed garage is to be installed slopes as you come inward to the lot. If the garage is moved inward off the property line, it would require fill which the applicant does not really want to do on his property.

Member O'Connell, concerned that the structure does not turn into what was previously requested and then modified at a later date, asked for confirmation that there will be no basement, no heat, no a/c. Mr. Darrell stated that that is correct, it will be a one and one-half A frame garage on slab with storage above.

Member Rose stated for the record that he has no problem with the garage being located in the general area but suggested that it could be moved, while still being accessible from the existing driveway, a few feet away from the fence so it has a less visual impact on the public area. Mr. Darrell requested that the garage be located as proposed noting that moving it a foot or two would not make a difference. Chairman McGuirk asked the driveway is circular. Mr. Darrell said no, the driveway dead ends at the fence which is where the proposed garage is to be located. Mr. Darrell said that the driveway is sort of a J instead of a circle. Chairman McGuirk stated that the mitigation will be the trees. Member Rose stated that there is not a lot of room and if the garage were moved farther east, it would allow for greater room for plantings that could mitigate the height. Member O'Connell asked if the trees will be full sized when planted. Mr. Darrell said yes. Chairman McGuirk asked if the trees are appropriate for the area. Village Planner Hajek stated that the proposed trees are red maple, which is native, and juniper Hollywood which is a hardy tree; it is similar to an eastern red cedar but it is not a cedar tree, it is a horticultural variety, but it does pretty well in a dune environment; they do not fill out like a cedar or like a white pine does, they are thinner on top. Chairman McGuirk asked if they will grow in this environment. Mr. Hajek said yes but that he cannot attest to their success rate in an eight-foot-wide gap but in this general area, being close to the beach, they will do well if they are irrigated properly. Mr. Darrell suggested a condition that the plantings be maintained,

and if they die, they have to re-installed. Chairman McGuirk stated that that will be a condition.

Upon motion of Philip O'Connell, duly seconded by James H. McMullan, the Board unanimously resolved to close the Public Hearing.

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

Chairman McGuirk called the hearing to order at 11:42 a.m., and the Public Notice, as duly published in the East Hampton Star, was read.

Application of 33 GB LLC, SCTM#301-2-5-4, for Variances from Chapter 278, Zoning, to construct a 755 square foot detached garage and A/C condensing unit. A 7 foot variance is requested from Section 278-3.A.(5)(a) to construct a garage 48 feet from the front yard lot line where the required front yard setback is 55 feet. Variances of 1.5 feet and 10.1 feet are requested from Section 278-3.A.(5)(b) to construct a garage and cellar entrance/bilco door 18.5 feet and 9.9 feet from the side yard lot line where the required side yard setbacks are 20 feet. A 6.1 foot variance is requested from Section 278-3.A.(5)(b) to construct an A/C condenser unit 13.9 feet from a side yard lot line where the required setback is 20 feet. The subject property is 43,468 square feet in area and is located at 33 Gingerbread Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

John Huber Esq. appeared on behalf of the applicant; no additional material was submitted into the record; no one appeared in opposition. Mr. Huber stated that he is accompanied by project architect Ernest Schieferstein. Applicant proposes a new 22 x 29-foot detached garage, cellar, storage; the cellar will be accessed by a 6 foot by 10-foot Bilco door on the west side. The subject parcel is a secluded flag lot located on the south side of Gingerbread Lane. The Village's Manufacturing Zoning District and the Long Island Railroad tracks lie to the north, beyond Gingerbread Lane, and the Village Townhomes abut to the west. The proposed garage will be set back approximately 355 feet south of Gingerbread Lane. Mr. Huber reviewed for the Board the photos submitted with the application and the requested variances.

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Mr. Huber stated that the criteria is summarized on page three of the application. The applicant seeks to have an aesthetically pleasing and appropriately scaled and located detached garage; the proposed garage will optimize the applicant's use and enjoyment of the property without any detriment to the health, safety, and welfare of the neighborhood or the community. The nearest residence is 47 Gingerbread Lane and 100 feet to the west. The proposed garage is in keeping with existing conditions on and in proximity to the subject property and will not affect neighborhood character or nearby properties. Based on the subject parcel's flag lot configuration and the existing site improvements, the benefit sought by the applicant cannot be achieved by an alternative, feasible method. The flagpole strip of the lot is 7,675 square feet and consumes 18 percent of the lot area which constitutes a substantial reduction in area that could be used otherwise for practical purposes such as the proposed garage or other improvements. To avoid creating an unnecessarily narrow alley between the dwelling and the garage is to allow a walkway. The proposed location is to minimize the garage's visibility from the existing porch to the parking area and to minimize obstruction of the pleasant breezes that cool the porch. If the garage was farther back toward the pool, it could obstruct the breezes and the desire was also to optimize the space from the edge of the pool to the back of the garage. The garage's west side would be the least obtrusive location for the a/c unit and the Bilco door.

Chairman McGuirk questioned why the a/c could not be placed back by the shower, taking away one of the variances. Mr. Huber stated it was the applicant's desire to keep the southern façade of the garage as aesthetically benign as possible. Member O'Connell questioned the need for an a/c unit for the garage. Mr. Huber stated that it is primarily for storage, climate controlled, and if Ms. Kornreich, the owner of the property, chooses to work in the garage during the summertime, she would like it to be climate controlled. Member McMullan suggested moving the garage 18 inches to eliminate a variance which would also move the garage away from the neighbor's property. Mr. Huber stated that it is so located to avoid an alley effect and for aesthetic reasons.

Mr. Huber, addressing the criteria, stated that the variances are not individually nor collectively substantial as it is a low impact for an accessory building. The Bilco door variance of 10.1 feet is the most quantitatively

significant although the structure will be installed at grade and will not have any impact on the neighborhood or nearby properties. Whether the requested variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood, this is a Type II Action under SEQR. Whether the alleged difficulty has been self-created. This proposal requires the least amount of variance relief and so the difficulty is not self-created. This is a flag lot, with an expansive panhandle, and an alternative feasible location for the garage on the site is not available. The requested variances are the minimum necessary to afford the applicant the benefit it seeks while preserving and protecting the neighborhood character and the community's health, safety, and welfare.

Mr. Huber stated that the Village Code does not prohibit cellars in garages and the cellar helps to drastically reduce the garage's footprint while not compromising the storage space. There will be mechanical space in the cellar, the batteries to store solar power, water heater, there is a sink in the garage, slop sink, and a dehumidifier.

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

ORIGINAL HEARING

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

Chairman McGuirk called the hearing to order at 12 noon, and the Public Notice, as duly published in the East Hampton Star, was read.

Application of The Rosery LLC, SCTM#301-8-5-1, for Area Variances from Chapter 278, Zoning, to construct additions to a preexisting nonconforming residence. An 8.03 foot variance is requested from Section 278-3.A.(4)(a) to construct additions 13.5 feet from the rear yard lot line where the required rear yard setback is 21.53 feet. A 273 square foot variance is requested from Section 278-3.A.(9)(a) to permit 4,869 square feet of coverage where the maximum permitted coverage is 4,596 square feet. The legally preexisting coverage is 5,010 square feet. The subject property is 20,481 square feet in area and is located at 146 Main Street in Residence District R-80 and the Main

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Street Historic District. This project is classified as a Type II Action in accordance with SEQR and requires review by the Village Design Review Board.

John Huber Esq. appeared on behalf of the applicant.

Chairman McGuirk questioned whether this application has been discussed by the Design Review Board. Ms. Bennett said no, not yet.

Mr. Huber stated for the record that the property name, The Rosery LLC, is owned by the Rose family and suggested that there is no relation to Board Member Rose. Village Attorney Messina asked Member Rose if that is correct. Member Rose stated that that is correct. Pamela Pospisil, the project architect, is also in attendance. A letter of support has been submitted from Philip Weber dated August 21, 2022 of 7 Dunemere Lane which is one block south of the subject premises. Proposed are first and second floor interior alterations and additions to the non-historic portion of the existing main house. The parcel has two front yards and two rear yards being located on the corner of Main Street and Pondview Lane. Mr. Huber reviewed for the Board the 20-page photograph exhibit which depicts existing property conditions. The property is preexisting with respect to its northern rear yard setback and lot coverage; 96 square feet of the proposed second floor space to be added over the current preexisting nonconforming first floor footprint's set back is 13.5 feet from the property's northern boundary whereas 21.5 feet are required. With reference to lot coverage, the maximum permissible lot coverage is 4,596 square feet where the legally preexisting coverage is 5,010 square feet; a 273 square foot lot coverage variance is required.

Mr. Huber stated that the benefit the applicant requires is an updated family-friendly floor plan and slightly enlarged building footprint that will optimize use and enjoyment of the house and adjacent outdoor spaces. The proposed improvements are also required to make the house habitable, consistent with contemporary living standards. The improvements will greatly enhance the house's architectural aesthetic and will not result in any detriment to the health, safety, and welfare of the neighborhood or community. The addition will be built over an existing first floor footprint. The neighboring parcel is of a scale similar, if not identical, to what is proposed for the subject

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property. The existing entry and substantial patio area on the house's north side will be eliminated and will benefit the parcel at 144 Main Street.

Mr. Huber called the Board's attention to Karel de Boer's submittal dated December 5, 2022. Village Attorney Messina asked Mr. Huber if he has spoken to the applicant's neighbor or has his client spoken to his/her neighbor. Mr. Huber said yes. Chairman McGuirk stated that according to the letter they have not. Village Attorney Messina suggested that it may behoove the applicant to revisit that, even if it has occurred, since there will be another hearing at the Design Review Board. Chairman McGuirk stated that his recommendation to the Board will be to keep the hearing open until the neighbor is contacted. Mr. Huber stated that there were communications with Mr. de Boer and he was provided a set of plans and his comment at the time was that he would not do anything to disrupt the application. Mr. Huber stated that Mr. de Boer's objection and material suggests that the applicant should locate its additions on the south side of the house which is where the applicant's existing driveway is located. Mr. Huber stated that Mr. de Boer also speculates without substantiation that the applicant's proposal will prevent afternoon sunlight from reaching his house during various times of the year. Mr. de Boer also opined that the applicant's proposed improvements will bring their respective houses visually closer thereby creating an alley effect and would have an adverse impact on his property value. Mr. Huber stated that the Village Code does not have pyramid regulations that would restrict applicant's proposed design and that the applicant's gabled roofline runs away from Mr. de Boer's property. Mr. de Boer points out in his submission that his and the applicant's building are the closest buildings on Main Street but Mr. Huber pointed out that the East Hampton Star building at 153 Main Street and the Clinton Academy Building of 151 Main Street are similarly situated with about 25 feet between them. Chairman McGuirk pointed out that those are not one family homes as they are commercial properties.

Mr. Huber stated that Mr. de Boer's renovation of his home did not require any variances, however, did require Design Review Board approval which was granted; Mr. Huber submitted the DRB approval granted in 2010. Village Attorney Messina questioned how that is relative to this application. Mr. Huber stated that the relevance is that although Mr. de Boer's application did not require variances, the application shows the progression of the

improvements and enlargement that Mr. de Boer has on the back of his house and that he would like to explain the impact of that on the applicant's property. Village Attorney Messina stated that the chance to explain the impact was during that application; this is about The Rosery LLC application, not about what the neighbor did. Mr. Huber stated that this may be his only opportunity to address Mr. de Boer's letter and needs a full and fair opportunity to address it. Village Attorney Messina stated that there was a full and fair opportunity to address it and Mr. Huber can address anything in the letter but what cannot be addressed is Mr. de Boer's application made 12 years ago at the Design Review Board. Mr. Huber stated that Mr. de Boer included that in his letter. Village Attorney Messina stated that the application is about Mr. Huber's client's application and the impact his client's proposed construction is going to have on surrounding properties, not what surrounding properties have already done. Mr. Huber asked for one minute. Chairman McGuirk asked Mr. Huber to be brief. Mr. Huber reviewed for the Board Mr. de Boer's 2010 Design Review Board application.

With respect to lot coverage and rear yard variances, it is necessitated by the proposed kitchen expansion and adjacent covered porch with steps at the house's southeast corner. All of the proposed improvements will be modest in scale and scope and will be architecturally consistent with existing conditions at the premises and prevailing development in the vicinity. The benefit sought by the applicant is the most practical and cumulatively effective design.

Mr. Huber, referring to Mr. de Boer's suggestion that the applicant's alterations be located on the south side of the house, at a minimum this would have the following infeasible consequences. It would require the staircase be located on the house's south side where the existing kitchen is located and will likely require an expansion of the house's footprint which would increase lot coverage and be conspicuously visible to Main Street. Such an extension would encroach into the existing driveway area on the house's south side which would interfere with existing parking and traffic flow on the property. Although applicant could propose relocating the driveway so that its curb cut was on Pondview Lane, this would substantially alter existing conditions on the property and would exacerbate traffic conditions on Pondview Lane associated with Guild Hall and residences further to the south.

Mr. Huber stated that the alleged difficulty is not self-created. Village Attorney Messina stated that the applicant bought the property knowing it was nonconforming. Mr. Huber stated that the house was deeded to the applicant. Village Attorney Messina stated that the property was deeded to the applicant and they knew it was nonconforming. Mr. Huber stated that he cannot speak for them but they took it as it was at the time it was given to them. Village Attorney Messina noted that it was nonconforming then so the applicant had knowledge or should have had knowledge so the difficulty is self-created. Mr. Huber agreed and stated that that is not determinative.

Member O'Connell stated that he finds the application is substantial even though it is over an existing footprint; the house is being expanded and is over what is allowed for coverage and setbacks. There is a lot happening on the property with a one or two-bedroom cottage in the front and another building and any intensification is substantial. Member O'Connell stated that if Mr. Huber has indicated that the addition would not take away from the light of the neighbor or impact the neighbor, he suggests that the plans be reviewed with the neighbor. The proposal is tight up on the neighbor who has a major objection; the application is self-created, substantial, and is in the Historic District.

Mr. Huber stated that the architect, Pamela Pospisil, can address the sunlight and that Mr. de Boer's comment about the sunlight is unsubstantiated; he did not submit an architectural analysis. Member O'Connell stated that Mr. de Boer is clearly under the impression he might not possess the same skill and expertise as that of Ms. Pospisil but as a neighbor, the applicant should run Mr. de Boer through the plans. Mr. Huber stated that Louisa Rose, who is the primary occupant of the home, provided Mr. de Boer with a set of plans well in advance of the hearing who indicated that he wished it was not as extensive but would not disrupt the application. Village Attorney Messina stated that Mr. de Boer has had a change of heart. Chairman McGuirk again suggested that the applicant contact Mr. de Boer.

Member Rose questioned the date that the property was built; it is in the Historic District and requires a Certificate of Appropriateness. Mr. Huber stated that it was built in the 1700's; the non-historic portions were added on in the 1950's. Member Rose suggested that the application be referred to the

Historic Preservation Committee so the Board can have some feedback. Village Attorney Messina stated that when the Board refers the applications, there should be a framed question. Member Rose stated that the framed question would be whether the variances being sought will materially impact the historic home. Mr. Huber stated that when he submitted the Zoning Board application, he submitted a full set of application materials to the Design Review Board.

John Pakutcheo Esq., appearing on behalf of Mr. de Boer, stated that the de Boers have been the primary residents of the house for 40 years, Mrs. de Boer, and now Karel de Boer, but Mr. de Boer could not attend because he has a primary medical treatment being conducted today. Mr. Pakutcheo stated that the structure is right next door to Mr. de Boer's driveway and house, maybe 20 or 25 feet like in New York City where there is a common driveway and a three-story building right next door; that is what the effect will be on the side of the house where Mr. de Boer's kitchen is located and where the living room is. The addition will block out the light. Mr. Pakutcheo stated that he did not know if in the law that is a substantial reason but it is the primary reason for his livelihood and living in that house; it is a main concern when your light, your sunlight is obstructed. If the proposed structure is shifted over, it would be fine as the applicant has a lot more land on the other side. Mr. Pakutcheo requested that the hearing be adjourned so Mr. de Boer can attend and speak on the matter. Village Attorney Messina clarified that caselaw holds that light, air, and ventilation are all factors that the Board can consider so the Board will consider them. Chairman McGuirk confirmed that the hearing will be kept open.

Mr. Huber submitted a photograph of the subject parcels. Pamela Pospisil, 141 Hampton Road, Southampton, New York, duly sworn in by the Village Clerk, swore to tell the truth, the whole truth, and nothing but the truth. Ms. Pospisil stated that the photograph submitted was taken in the fall, late afternoon and that the addition at the rear of the house is no taller than the existing home; from the photograph it is clear that Mr. de Boer's house is still in full sunlight and that because the proposed addition is no taller, it is not going to cast a shadow and obliterate the sunlight coming into his house. Ms. Pospisil stated that in preparing the design, the most important thing was not to alter the historic portion of the house, which is not being touched at all, and

having a minimal visual impact from Main Street. The area of construction has flat roofs so a gabled roof will be added to the building.

Chairman McGuirk stated that the hearing will be left open until January 13, 2023.

ORIGINAL HEARING

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

Chairman McGuirk called the hearing to order at 12:42 p.m. and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Buck Properties, LLC, SCTM#301-9-4-3, for Area Variances from Chapter 278, Zoning, to legalize accessory improvements, including a putting green, fencing, patios and a water feature. A 2-foot variance is required from Section 278-3.A.(10) to legalize the installation of 8-foot deer fencing when the maximum height of fencing is 6 feet. Variances of 17 feet, 13.4 feet, 7.6 feet, 18.8 feet and 14 feet are required from Section 278-3.A.(5)(b) to legalize a slate patio located 3 feet from a side yard lot line, a fireplace with slate patio located 6.6 feet from the rear yard lot line, a water feature located 12.4 feet from the rear yard lot line, and a slate patio located 1.2 feet from a side yard lot line and 6 feet from a rear yard lot line where the required setbacks are 20 feet. A 3-foot variance is required from Section 278-3.A.(5)(d) to legalize a walkway that bisects a side yard lot line where the required setback is 3 feet. Variances of 29.6 feet and 23.9 feet are required from Section 278-3.A.(5)(c) to legalize a playing court/putting green located 10.4 feet from a side yard lot line and 16.1 feet from a rear yard lot line where the required setbacks are 40 feet. The subject property is 52,831 square feet in area and is located at 29 Dunemere Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Jonathan Tarbet Esq. appeared on behalf of the applicant; no additional material was submitted into the record; no one appeared in opposition. Mr. Tarbet stated that the property is unique in that it borders the Maidstone Club tennis courts and where the Club keeps all their equipment for mowing the golf course which is noisy. The applicant installed a brick wall and added a water feature within the wall which needs a variance. The slate patio connected to

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the garage is used to store flower pots which is bluestone slate sitting on the ground to keep the area from being weedy and muddy and keeps the storage out of sight. The third variance request is for the putting green which is at grade with fake grass but it does qualify as a playing court according to the Village Code; it is not the same associated noise as that of a tennis court.

Building Inspector Thomas Preiato stated that although encroachments are civil in nature, there appears to be encroachments of fences on the neighboring property and wants to be assured that there is a pool barrier, a fence, on the applicant's property as this is a matter of safety. Mr. Tarbet stated that the applicant would have to come into compliance and install their own fence as the intent is to obtain a Certificate of Occupancy. Member O'Connell questioned whether if the Board approves the putting green could there be a stipulation that it could not be used as a playing court. Village Attorney Messina said yes, that it must stay in its existing condition as noted on the plan. Member Rose questioned whether the southerly neighbor has an objection and suggested that the Board have input from the neighbor. Mr. Tarbet stated that normally he does reach out to neighbors but did not on this application because the neighbor also backs up to the Maidstone Club's mechanicals.

Upon motion of James H. McMullan, duly seconded by Andrew Baris, the Board unanimously resolved to close the Public Hearing except for the written submission of affirmation that the adjacent neighbors do not object.

ORIGINAL HEARING

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

Chairman McGuirk called the hearing to order at 12:53 p.m. and the Public Notice, as duly published in the East Hampton Star, was read.

Application of 26 West End Road, LLC, SCTM#301-15-3.7.1, for Area Variances from Chapter 278, Zoning, and a Wetlands Permit from Chapter 163, Freshwater Wetlands, to construct two accessory structures/art sculptures. A wetlands permit in accordance with Section 163-3 and a variance of 44 feet is requested from Section 278-3.A.(8) to construct an accessory structure/art sculpture 106 feet from wetlands where a 150-foot setback is required. A 10-

foot variance is requested from Section 278-3.A.(5)(b) to construct an accessory structure/art sculpture 10 feet from a side yard lot line where the required side yard setback is 20 feet. The subject property is 71,347 square feet in area, is located at 26 West End Road and is in Residence District R-160. This property is located in FEMA Flood Zone AE (el.11) and Zone X and has frontage on Georgica Pond. This project is classified as a Type II Action in accordance with SEQR.

Chairman McGuirk noted for the record that the Board received a letter from Leonard I. Ackerman Esq. on behalf of Summerhouse30 LLC in support of the application.

Christopher Kelley Esq. appeared on behalf of the applicant; no additional material was submitted into the record; no one appeared in opposition. Proposed are two outdoor sculptures, one of which will be within the 150-foot setback from Georgica Pond, to be located 106 feet, and the other sculpture is to be located 10 feet west of the eastern property line where 20 feet is required. Mr. Kelley stated that in addition to the letter of support Chairman McGuirk noted, the neighbor on the other side has submitted a letter of support as well. There will be no visual impact because neither sculpture can be seen from the road; the renderings show how the sculptures will be screened from neighbors. The Board has previously granted these types of variances; one of the neighbors that has consented here, was granted a variance for a sculpture to be located within the wetland setbacks.

Vice Chairman McMullan stated that he does not have a problem with the application but if the application is approved, he suggested that the approval be solely for these two pieces of art and if replaced or changed, that the applicant would have to come back to the Board. Member Rose questioned the height of the sculptures and whether they would be visible from the Pond. Mr. Kelley stated that it is 105 inches tall, a little over eight feet; is 42 inches wide by 34 inches long; the base on which the sculpture is going to be located is 10 square feet. Village Attorney Messina noted that there is a plan. Member O'Connell suggested that the sculpture meet the 125-foot landscape setback. Mr. Kelley stated that the sculpture would touch the residence; the residence is right on the edge. Member O'Connell clarified that the sculpture meet the 125-foot landscape setback, not the 150-foot setback

for structures. Mr. Kelley requested an opportunity to consult with his client and get back to the Board, leaving the record open only for that purpose to which the Board agreed.

ORIGINAL HEARING

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

Chairman McGuirk called the hearing to order at 12:59 p.m. and the Public Notice, as duly published in the East Hampton Star, was read.

Application of Little Plain Homeowners Association, Inc., SCTM#301-12-7-14, for an Area Variance from Chapter 278, Zoning, and a Freshwater Wetlands Permit in accordance with Chapter 163 of the Village Code for the removal of Phragmites. A variance is required from Section 278-3.A.(8) and a wetlands permit in accordance with Section 163-3 to remove Phragmites from wetlands and adjacent areas by utilizing handheld tools and equipment. The subject property is 46,235 square feet in size and is located at 186 Lily Pond Lane in Residence District R-160. This project requires approval of the New York State Department of Environmental Conservation and the East Hampton Town Trustees. The project is classified as an Unlisted Action in accordance with SEQR.

Trevor Darrell Esq. appeared on behalf of the applicant; no additional material was submitted into the record; no one appeared in opposition. Chairman McGuirk asked Village Planner Hajek for his comments first. Mr. Hajek stated that this is a fairly routine phragmites removal project using handheld tools and equipment, cutting with shears and other devices; this work has been done on the north side of Lily Pond by the same group, the homeowners association, and he has been on the property multiple times and it has been fairly effective and they have done a very good job of controlling phragmites and now this is an extension to do the south end. Mr. Hajek stated that when the property was subdivided, the Planning Board had required the removal of vegetation to try to restore the view of Lily Pond and this application is fulfilling that requirement. Mr. Hajek suggested that the Board impose conditions that are standard with applications like this; the permit be valid for a period of four years; that the applicant provide notification before

commencement and after completing the project; and the submission of annual reports containing photographs which is fairly routine for phragmite removal projects.

Mr. Darrell stated that there is not a whole lot more to add to Mr. Hajek's statement other than the applicant is looking to keep it in conformity with the other permits that were issued for the other lots that Billy had mentioned. Mr. Darrell noted that the native species are starting to come back in the other areas. Chairman McGuirk stated that it is nice to see.

Upon motion of James H. McMullan, duly seconded by Andrew Baris, the Board unanimously resolved to closed the Public Hearing.

Upon motion of Philip O'Connell, duly seconded by James H. McMullan, the Board unanimously resolved to adjourn the meeting at 1:02 p.m.

17025

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, December 9, 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. The applications can be viewed on the Village's website easthamptonvillage.org by clicking on the "Alerts" tab.

Application of 33 GB LLC, SCTM#301-2-5-4, for Variances from Chapter 278, Zoning, to construct a 755 square foot detached garage and A/C condensing unit. A 7 foot variance is requested from Section 278-3.A.(5)(a) to construct a garage 48 feet from the front yard lot line where the required front yard setback is 55 feet. Variances of 1.5 feet and 10.1 feet are requested from Section 278-3.A.(5)(b) to construct a garage and cellar entrance/bilco door 18.5 feet and 9.9 feet from the side yard lot line where the required side yard setbacks are 20 feet. A 6.1 foot variance is requested from Section 278-3.A.(5)(b) to construct an A/C condenser unit 13.9 feet from a side yard lot line where the required setback is 20 feet. The subject property is 43,468 square feet in area and is located at 33 Gingerbread Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of The Rosery LLC, SCTM#301-8-5-1, for Area Variances

from Chapter 278, Zoning, to construct additions to a preexisting non-conforming residence. An 8.03 foot variance is requested from Section 278-3.A.(4)(a) to construct additions 13.5 feet from the rear yard lot line where the required rear yard setback is 21.53 feet. A 273 square foot variance is requested from Section 278-3.A.(9)(a) to permit 4,869 square feet of coverage where the maximum permitted coverage is 4,596 square feet. The legally preexisting coverage is 5,010 square feet. The subject property is 20,481 square feet in area and is located at 146 Main Street in Residence District R-80 and the Main Street Historic District. This project is classified as a Type II Action in accordance with SEQR and requires review by the Village Design Review Board.

Application of Buck Properties, LLC, SCTM#301-9-4-3, for Area Variances from Chapter 278, Zoning, to legalize accessory improvements, including a putting green, fencing, patios and a water feature. A 2-foot variance is required from Section 278-3.A.(10) to legalize the installation of 8-foot deer fencing when the maximum height of fencing is 6 feet. Variances of 17 feet, 13.4 feet, 7.6 feet, 18.8 feet and 14 feet are required from Section 278-3.A.(5)(b) to legalize a slate patio located 3 feet from a side yard lot line, a fireplace with slate patio located 6.6 feet from the rear yard lot line, a water feature located 12.4 feet from the rear yard lot line, and a slate patio located 1.2 feet from a side yard lot line and 6 feet from a rear yard lot line where the required setbacks are 20 feet. A 3-foot variance is required from Section 278-3.A.(5)(d) to legalize

a walkway that bisects a side yard lot line where the required setback is 3 feet. Variances of 29.6 feet and 23.9 feet are required from Section 278-3.A.(5)(c) to legalize a playing court/putting green located 10.4 feet from a side yard lot line and 16.1 feet from a rear yard lot line where the required setbacks are 40 feet. The subject property is 52,831 square feet in area and is located at 29 Dunemere Lane in Residence District R-40. This project is classified as a Type II Action in accordance with SEQR.

Application of 26 West End Road, LLC, SCTM#301-15-3.7.1, for Area Variances from Chapter 278, Zoning, and a Wetlands Permit from Chapter 163, Freshwater Wetlands, to construct two accessory structures/art sculptures. A wetlands permit in accordance with Section 163-3 and a variance of 44 feet is requested from Section 278-3.A.(8) to construct an accessory structure/art sculpture 106 feet from wetlands where a 150 foot setback is required. A 10-foot variance is requested from Section 278-3.A.(5)(b) to construct an accessory structure/art sculpture 10 feet from a side yard lot line where the required side yard setback is 20 feet. The subject property is 71,347 square feet in area, is located at 26 West End Road and is in Residence District R-160. This property is located in FEMA Flood Zone AE (el.11) and Zone X and has frontage on Georgica Pond. This project is classified as a Type II Action in accordance with SEQR.

Application of Little Plain Homeowners Association, Inc., SCTM#301-12-7-14, for an Area Variance from Chapter 278, Zoning, and a Freshwater Wetlands

Permit in accordance with Chapter 163 of the Village Code for the removal of Phragmites. A variance is required from Section 278-3.A.(8) and a wetlands permit in accordance with Section 163-3 to remove Phragmites from wetlands and adjacent areas by utilizing handheld tools and equipment. The subject property is 46,235 square feet in size and is located at 186 Lily Pond Lane in Residence District R-160. This project requires approval of the New York State Department of Environmental Conservation and the East Hampton Town Trustees. The project is classified as an Unlisted Action in accordance with SEQR.

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: November 18, 2022

By Order of John L. McGuirk III, Chairman, Zoning Board of Appeals Inc. Village of East Hampton
20-2/236

FILED
VILLAGE OF EAST HAMPTON, NY
DATE: 11/24/23
TIME: 10:50 AM

Patricia J. Bennett

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