

**ARCHITECTURAL REVIEW BOARD
VILLAGE OF WESTHAMPTON BEACH
Tuesday, June 4, 2019 at 7:00 pm
MUNICIPAL BUILDING, 165 MILL ROAD**

Present: Gregory Minasian, Chairman
Laurette Lizak
Andrea Kaloustian
Michael Stoehr

Kevin A. McGowan, Esq., Village Attorney
Kerry Rogozinski, Building Permits Coordinator

Absent: Allegra Dioguardi

The meeting was called to order at 7:00 p.m.

Mr. Minasian said we have four Board members present tonight and that three votes would be needed to approve or disapprove any application on the agenda. Mr. Minasian asked whether any applicants wished to hold their applications over for a full Board, if so, must say before the Board hears your application, but nobody did.

FINDINGS OF FACT

1. **Schlusselberg Family Limited Partnership, 24 East Division Street, (905-10-7-30)** Two story dwelling with raised enclosed foundation area used for building access and light storage. Dwelling is fully sprinklered. Swimming pool and deck.
Prior to framing inspection, the applicant shall submit and obtain approval by the Fire Marshal for the sprinkler installation.

Rocco Lettieri, Contractor, James Hulme, Attorney, Marvin Lerner and Ginger Proper, neighbors appeared.

Mr. Minasian read into the record a letter (in the form of an e-mail to Kerry) from David Dietz 12 East Division Street:

I have enjoyed the past 15 years living on East Division Street and am dismayed to learn of the request through your committee to convert what was a small in character house on a flood plain property into a massive structure which will obstruct the views and enjoyment of beautiful Moniebogue Bay for our families and visitors who bring commerce to the WHB community.

Architectural Review Board

Pg. 2

June 4, 2019

(Schlusselberg-con't)

The architecture plan for the proposed ultra-modern home at #24 is both incongruous and frightening to our small street and those trying to experience the pleasures of the town marina.

I know you have a meeting of the ARB tomorrow and would appreciate your sharing this communique and my reservations with your board and colleagues in advance. Many thanks for your consideration.

Mr. Hulme objected to having this email as part of the record because he believes that a determination has been made by the ARB and the record has been closed.

Mr. McGowan said the Board is going to vote on the Finding of Fact which did not take into consideration this letter.

Mr. Minasian said we do have the Findings of Fact and asked if they wanted it read or can they just enter it into the record. Mr. Hulme and Mr. Lettieri said they wanted it read. Mr. McGowan read it.

VILLAGE OF WESTHAMPTON BEACH
ARCHITECTURAL REVIEW BOARD

-----X

In the Matter of Application of

Schlusselberg Family Limited Partnership
FACT

FINDINGS OF

Address: 24 East Division Street
SCTM #: 905-10-7-30

I. BACKGROUND

At its meeting on May 21, 2019, the Village of Westhampton Beach Architectural Review Board (“ARB”) disapproved an application for a new single-family residence at the above-referenced property. By letter dated May 22, 2019, the applicant, Schlusberg Family Limited Partnership (“Schlusberg”), requested that the Board issue “formal findings of fact” with respect to said disapproval, pursuant to Section 5-19 of the Village Code.

Architectural Review Board

Pg. 3

June 4, 2019

(Schlusberg-con’t)

The subject resolution constitutes the Board’s “formal findings of fact” regarding its disapproval of the application.

II. APPLICATION

Schlusberg is the owner of a parcel of real property located at 24 East Division Street that is improved by a one-story frame residence, garage, deck over bulkhead and boat slip. The property is bounded on the west by East Division Street, which terminates at the property, on the south by Moneybogue Road, an unopened “paper” street, the east by Moneybogue Canal, and the north by a private residential parcel owned by Ginger Propper and Marvin Lerner, with an address of 16 East Division Street.

The applicant proposes to demolish the existing dwelling and construct a new two-story dwelling with a terrace and swimming pool. Pursuant to Section 5-9.A of the Village Code, review and approval of the proposed dwelling by the ARB is required before a building permit can be issued. The purpose of the ARB’s review of the exterior of new construction, as set forth in Section 5-1 of the Village Code, is to, among other things, “preserve and promote the character, appearances and aesthetics of the Village and to conserve the property values of the Village.”

The plans initially submitted with the building permit application, prepared by Design Works Architectural Group and dated March 18, 2019, reflected that the proposed home would consist of a flat-roofed, largely rectangular structure elevated on timber piles with a modern architectural design. The plans also reflected that the façade of the proposed home would feature a number of different materials, including, most predominantly, horizontal cedar siding, cedar

(Schlusselberg-con't)

battens on HDF siding between the large windows along the southern and eastern elevations, grey stone veneer on the large chimney and other areas of the façade, and white pvc siding.

The plans further showed that the proposed home would have an extensive number of windows along the southern and eastern elevations, with floor to ceiling windows along the majority of both the first and second floors on those sides of the home.

III. ARB PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on April 16, 2019, with the hearing continued at the May 7, 2019 and May 21, 2019 ARB meetings. The applicant's attorney James N. Hulme, Esq., appeared on behalf of the application, together with Rocco Lettieri. Ginger Propper and Marvin Lerner, 16 East Division Street, (the adjacent property to the north of the subject premises) appeared in opposition to this application. The primary concerns raised by the neighbors in opposition was with the impact of the proposed home, particularly the northern façade, on their property. The neighbors complained that the northern façade, which was to be located 20 feet from their property line pursuant to a variance issued by the Zoning Board of Appeals on May 16, 2019, had an excessive length of approximately 72 feet and amounted to a solid wall that rose straight up more than 30 feet from grade (inclusive of the wide chimney situated along the northern façade) which no pitch in the roof or other means of softening the height of the proposed home. The neighbors further complained that the proposed home would have adverse impacts on their vegetation and drainage, which the Board did not find relevant to its consideration of this application.

The Board notes that the applicant submitted revised plans dated May 8, 2019, which proposed additional landscaping to buffer the proposed home from the street and from the

(Schlusselberg-con't)

Propper residence to the north. The revised plans also reduced the width of the chimney by almost 10 feet and added some windows and other architectural details along the northern façade of the proposed home.

The hearing was closed at the May 21, 2019 meeting, at which time the four Board Members present voted unanimously to disapprove the application (Member Kaloustian was absent and therefore did not vote).

By letter dated May 22, 2019, Mr. Hulme requested that the Board issue “formal findings of fact” with respect to its disapproval of the application, pursuant to Section 5-19 of the Village Code.

IV. GOVERNING LAW

Section 5-18B of the Village Code authorizes the ARB to disapprove an application upon finding that the construction of the proposed structure would have a harmful effect by reason of:

Striking dissimilarity, visual discord or inappropriateness with respect to other structures or buildings located or proposed to be located in the vicinity in respect to one or more of the following features of exterior design and appearance:

- (1) Façade, disregarding color.
- (2) Size and arrangement of doors, windows, porticos, porches or garages or other openings, breaks or extensions in the façade.
- (3) Other significant design features, such as, but not limited to heights, widths, lengths or elements of design, exterior materials and treatments, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas, fences, service areas, awnings and canopies.

In the event that the ARB disapproves an application, Section 5-19 of the Village Code authorizes any person aggrieved by such decision to request, within 30 days of the filing of the application.

(Schlusselberg-con't)

decision, that the ARB make formal findings of fact. In the event of such a request, the ARB must make such findings of fact within 15 days after the request is filed. Following the adoption of its findings of fact, the ARB shall thereafter provide the person with an opportunity to answer the findings by a submission of formal proof and the Board shall reconsider the application on the basis of such answer.

Finally, if a person is still aggrieved by the decision of the ARB after reconsideration, they may appeal to the Zoning Board of Appeals within 30 days after the filing of the ARB decision after reconsideration.

V. FINDINGS AND CONCLUSIONS

Based upon the materials submitted to the Board with respect to the subject application, along with testimony provided at the April 16, 2019 May 7, 2019 and May 21, 2019 meetings, the Board disapproves of the proposed construction on account of its striking dissimilarity, visual discord and inappropriateness with respect to other structures or buildings located or proposed to be located in the vicinity of the premises.

The Board finds that East Division Street and the surrounding vicinity is characterized predominantly by homes with a traditional or European architectural style, generally featuring pitched roofs and shingle or clapboard siding. In contrast, the renderings submitted by the applicants reflected that the proposed home has a highly modern architectural style with several contrasting façade materials and colors, which the Board finds to be strikingly dissimilar to other buildings located in the vicinity of this site.

Architectural Review Board

Pg. 7

June 4, 2019

(Schlüsselberg-con't)

The Board notes that the applicant argued for an expansive definition of the term “vicinity” in Village Code Section 5-18, and argued that the New York State Supreme Court has opined that said term refers to the area within a radius of 1,000 to 2,000 feet of the property at issue. See *Goldsmith v. Zoning Board of Appeals of the Village of Westhampton Beach* (Index. No. 023501/1997) However, the Board finds this case to be distinguishable in numerous respects. In addition to discussing the definition of the term “neighborhood,” rather than “vicinity,” *Goldsmith* concerned the denial of an area variance for a proposed tennis court in a front yard where the applicant submitted a neighborhood analysis showing that 11 of the 31 developed properties within 1,000 feet of the parcel in question included tennis courts, eight of which were in the front yard. No such neighborhood analysis was submitted in this case, as the applicant instead merely provided anecdotal evidence of other homes north of Dune Road with an alleged “modern” architectural style. The Board finds that the *Goldsmith* case, rather than setting a fixed standard for the definition of the term “vicinity” that applies in all instances, supports the Board’s discretion to define said term on a case-by-case basis.

In support of its claim that the term “vicinity” should be defined expansively, the applicant also submitted the May 16, 2019 decision of the Village ZBA, which overturned the ARB’s disapproval of an application for a home located at 20 Seafield Lane. However, while the ZBA in that case disagreed with the ARB’s finding that the proposed home was strikingly dissimilar to other homes in the surrounding vicinity, the ZBA specifically noted that “it is making no categorical pronouncements or precedents about the appropriateness of modern contemporary architecture in all areas...”

(Schlusselberg-con't)

The Board therefore disapproves of the proposed construction of the home as depicted in the plans submitted by Design Works Architecture Group, dated May 8, 2019. As set forth in Section 5-19 of the Village Code, the Board shall provide the applicant with an opportunity to answer these findings of fact by submitting formal proof and the Board shall reconsider the application on the basis of such answer.

Dated: June 4, 2019

Village of Westhampton Beach
Architectural Review Board

Motion was made by Mr. Stoehr to accept the Findings of Fact as written; second by Ms. Kaloustian, and unanimously carried 4 ayes 0 nays 1 absent.

Mr. Hulme said the decision provided us with an opportunity to present additional information.

Mr. Hulme said that we have presented all the information that we believe is appropriate and we waive our right to do that at this time and we would like the Board render a final decision tonight so we may proceed to the next step which is an appeal to the Zoning Board.

Mr. McGowan said he has no issue with the Board procedurally granting that. Mr. McGowan said the ARB shall provide the applicant to answer the findings of fact by submitting submissions and reconsider the application. In recognition of the applicant waiving their opportunity to make formal submission, the Board is going to render a decision upon reconsideration tonight.

Motion was made by Mr. Stoehr that the Board will disapprove on reconsideration seconded by Ms. Lizak and 4 ayes 0 nays 1 absent.

Mr. Lettieri want to note that he is highly disappointed in this Board.

Mr. Lettieri said this Board is supposed to give information and feed back when you make a decision and you gave nothing. He went on to say he made concessions to this Board and you stood there with cold face and didn't answer the questions.

NEW APPLICATIONS

2. **Pine West, LLC, 272 Oneck Lane, (905-010-01-009)** Two-Story Single Family Dwelling over Crawlspace with Attached Two-Car Garage, Rear Covered Patio with Deck Above, Fireplace, and Front Covered Porch (5 bed, 4.5 bath), Inground Swimming Pool with Fence and Landscaping

William Schilling, Contractor appeared. Mr. Schilling said the roof will be wood Cedar shingle shake left natural, the siding will be wood Cedar shingle left Natural, black windows and the trim around window will be white, white Azek trim, patio in bluestone, deck on second floor will be Mahogany with a wire rail, and white square columns.

Ms. Lizak asked about the foundation that is exposed. Mr. Schilling said that that he will stucco it. Mr. Schilling said the garage doors will be wood painted white.

Mr. Minasian asked about the retaining wall. Mr. Schilling said it will be some sort of stone veneer and he will be landscaping in front to hide most of it.

Mr. Schilling said there are hedges there now and he will try to salvage them and leave them there. Mr. Schilling said there will be a black chain link fence inside the privet hedge and two gates which will provide the pool enclosure.

Mr. Schilling marked it on the landscape plan.

Motion was made by Mr. Stoehr to **approve** the application of **Pine West, LLC** as noted on plan drawn by Jeffrey Sands Architect dated May 2, 2019; and landscape plan drawn by Jeffrey Sands Architect date stamped May 15, 2019 seconded by Ms. Kaloustian and unanimously carried

4 ayes 0 nays 1 absent

Motion was made by Mr. Stoehr to adjourn the meeting at 7:40 pm; seconded by Ms. Kaloustian and unanimously carried **4 ayes 0 nays 1 absent**

Respectfully submitted,

Kerry Rogozinski
Building Permits Coordinator

APPROVED:

Gregory Minasian, Chairman of the Board

Dated: _____