

January 16, 2020

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, January 16, 2020, at 5:00 p.m. in the Municipal Building, located at 165 Mill Road, Westhampton Beach, New York.

PRESENT: Gerard Piering, Chairman
Jim Badzik
Joe Musnicki
John Wittschen
Frank DelGiudice

Anthony C. Pasca, Esq., Village Attorney
Brad Hammond, Building & Zoning Administrator

Maeghan Mackie, Building Permits Examiner / Board Secretary

MINUTES TO BE APPROVED

November 21, 2019

December 19, 2019

DECISIONS:

1. Francis & Donna O’Conner, 16 Oneck Place (905-009-03-035) Applicant requests variance from §197-6 D to construct an addition with a front yard setback of 38.9 feet where the minimum setback required is 50 feet.

No one appeared on behalf of the application. Aram Terchunian submitted a request to withdraw the application of **Francis & Donna O’Conner, 16 Oneck Place (905-009-03-035)** without prejudice; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.

2. JKK JR R-E LLC, 88 Oneck Lane (905-009-03-028.02) Applicant requests variances from §197-6 D to construct an addition with a side yard setback of 20 feet and a combined side yard setback of 57.6 feet, where the minimum setbacks are 30 feet and 70 feet, respectively.

Nicholas A. Vero, Architect appeared on behalf of the application. Mr. Piering stated there was a determination, and the reading was waived.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

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In the Matter of Application of

JKK JR R-E, LLC

DETERMINATION

Address: 88 Oneck Lane

SCTM #: 905-9-3-28.2

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I. REQUEST FOR RELIEF

The applicant, JKK JR R-E, LLC., is the owner of a parcel of real property located at 88 Oneck Lane. The property is located wholly within the R-1 Zoning District. According to the survey of the property prepared by Fox Land Surveying, David H. Fox dated October 5, 2019,

and last revised on November 1, 2019 (hereinafter, "Fox Survey"), the parcel is improved with a one-story frame house and slate patio.

Section 197-6.D. of the Village Code provides that, in the R-1 District, there shall be two side yards totaling not less than 70 feet, neither of which shall be less than 30 feet.

The applicant proposes to construct an addition and patio expansion on the East side of the property. The applicant therefore requests an area variance from Section 197-6.D.

The applicant seeks a variance to construct an addition and patio expansion on the east side yard of the property, with a minimum setback of 20.5 feet to the easterly side lot line, and a combined side yard setback of 58.1 feet, as depicted on Fox Survey. The applicant therefore requests a 9.5-foot variance from the single side yard requirement of 30 feet and a 11.9-foot variance from the 70-foot total side yard requirement, as provided in Section 197-6.D.

II. SEQRA

The applicant submitted an Environmental Assessment Form (EAF) Part 1 in connection with the application. The Board classifies the application a Type II action under 6 NYCRR 617.5(c)(11), (12), (16) and (17). No further review is required under SEQRA.

III. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on December 19, 2019. The applicant's architect, Nicholas A. Vero, appeared and presented the application. No other persons appeared in support or opposition to the application, and the Board did not receive any written submissions from any neighbors in support or opposition to the application. The hearing closed for a determination.

IV. GOVERNING LAW

The Zoning Board is empowered to grant area variances pursuant to Section 7-712-b of the N.Y. Village Law and Section 197-75 of the Village Code.

In considering applications for area variances, the Board is required to weigh the benefit to the applicant against the detriment to the health, safety and welfare of the community, while considering the following five factors: (1) whether the variance will cause an undesirable change in the character of the neighborhood or a detriment to nearby properties; (2) whether the benefit can be achieved by a feasible alternative; (3) whether the variance is substantial; (4) whether the variance will have any adverse physical or environmental impacts; and (5) whether

the alleged difficulty was self-created (which shall be relevant but shall not necessarily preclude the variance).

The Board is charged to grant only the minimum variance necessary and to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Finally, the Board is empowered to impose reasonable conditions to minimize any adverse impacts from the variance.

V. FINDINGS AND CONCLUSIONS

With respect to the statutory requirements for a variance, the Board finds as follows:

1. *Character of the Neighborhood:* The applicant has demonstrated that the proposed addition will not have a significant adverse impact on the character of the neighborhood. The applicant has also shown that its planned addition is carefully designed to minimize and mitigate against impacts on the adjoining parcel to the east, which is the most impacted by the requested variances. The existing patio has a setback nonconformity of 20.5', and the replacement addition (an enclosed dining room) is only modestly larger than the existing covered patio in length (26 feet, proposed, versus 20 feet, existing).
2. *Alternatives:* The applicant has demonstrated that there are no feasible alternatives to achieve the benefits sought without a variance.
3. *Substantiality:* The single side-yard variance is mathematically substantial. The substantiality is mitigated by the pre-existing nonconformity, which is not being increased.
4. *Physical/Environmental Impacts:* No physical or environmental impacts have been identified.
5. *Self-Created Difficulty:* The difficulty is self-created.
6. *Benefit vs. Detriment:* On balance, the Board finds that the benefit to the applicant outweighs the detriment to the community, subject to the conditions imposed herein.
7. *Minimum Variance:* The variances are the minimum necessary to achieve the benefit sought.

The Zoning Board therefore grants the requested area variance from Section 197-6.D. to allow the applicant to construct a 403 square foot addition as shown on the survey prepared by Fox Land Surveying, David H. Fox dated October 5, 2019, and last revised on November 1, 2019, subject to the following conditions to minimize any adverse impacts from the variance:

VI. CONDITIONS

1. The variances granted herein are limited to the relief set forth in this decision, and pertain only to the plans approved in this decision, and shall not be construed as creating conforming dimensions. There shall be no further extension (horizontally or vertically), increase, alteration or modification to the proposed lots to the extent they have non-conforming dimensions, without further approval of the Board.
2. No outdoor accessory structures or equipment (including but not limited to air conditioning condensers, HVAC equipment, above-ground utilities, generators, pool equipment, solar panels, garbage/storage bins, etc.) may be located within a required front, side, or rear yard, except as depicted on the approved plans, without further approval of the Board.
3. There can be no exterior work performed on weekends from May 1 to September 30 and on weekdays from July 1 to September 10.

Dated: January 16, 2020

Village of Westhampton Beach
Zoning Board of Appeal

Motion was made by Mr. Piering to adopt the determination of **JKK JR R-E, LLC., 88 Oneck Lane (905-9-3-28.2)** as written; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

HOLDOVERS

3. Crampton Society LLC, 119 Dune Road (905-021-03-008) Applicant seeks an interpretation that the Building Inspector erred in his determination that the dwelling is located within the primary dune area where restorations are prohibited and that the dwelling is located within the secondary dune area where there is no prohibition of engaging in a restoration. In lieu of a favorable determination by the Board, the applicant requests variances from §74-8 A(8) for proposed additions and alterations that represent a restoration (exceeding 50% of the full replacement cost of the existing dwelling) within a Coastal Erosion Hazard Area primary dune area where prohibited. Irrespective of the above item, the applicant also requests variances from §197-5 A(1) for proposed additions within a required yard (within 75' of the crest of dune/rear property line) where conformity is required for additions, from §197-8 E(1)(b) for a proposed roof ridge height of 49.65 feet above sea level where the maximum permitted is 44 feet above sea level, from §197-34 G for a proposed dwelling floor area of 6,907 square feet where the maximum permitted is 6,000 square feet, and from §197-35 C for a proposed deck that extends 5 feet past the crest of the dune (rear property line) where the minimum setback required is 75 feet.

James N. Hulme, Esq., appeared on behalf of the application, together with Joshua Rosensweig Architect. We've talked about moving this and trading utility space for utility space and we want to discuss those items. We've reduced the habitable space increase to equal the amount of space for the utilities needed.

Mr. Rosensweig said they were able to get from 6,907 square feet to 6,582 square feet. In the packet A101 they have taken the North side of the first floor and pushed it to the South and tightened it up. They have reduced the foyer and removed the powder room in the proposed plan. They have reduced the sitting room and bathroom and the second floor plan on the next page, A102 was a uniform shrinking of the North bound bedrooms toward the South; the major renovations where the proposed staircase comes in to play exists and they have moved it to the

South and the West on the master wing they've reduced the closets and the massing as well. In terms of what we're asking it represents a large cut, it's a 35% reduction.

Mr. Badzik asked if they took the North facing stuff and moved it to the South?

Mr. Rosensweig said the additions were to the North and we're reducing what we wanted to build; we pushed back from the North. This is a triple wide lot with a long, but shallow home. 1' across a house that's 125' is a lot of square footage. There is nothing that projects too far from the other, it is very seamless from the East to the West and to reduce the GFA has to happen along the 125'.

Mr. Hulme said this is really about equivalency in losing the basement and relocating the utilities and sufficient space to provide the utilities and recapture what we're losing.

Mr. Rosensweig said there are air handlers going in to the attic which is not a clear third story, and that will house mechanical equipment and air handlers. It makes more sense over bathrooms and closets and the geometry has something to do with HVAC equipment, and the removal and adding the mechanical room and equipment creates a domino effect over circulation.

Mr. Musnicki said it's a trade off from the existing basement to the proposed.

Mr. Rosensweig said the basement is greater in square footage, but you can argue it's not all being used for mechanical equipment. But, yes we're losing a lot more granted gross floor area from a legal basement that's non conforming.

Mr. Badzik asked if the only mechanical room off of the boot room?

Mr. Rosensweig said there is the entire under the stair, and the stair case will not be open and there will be an air handler and pump under that stair, and it could be a powder room but it will be to house those mechanics.

Mr. Hulme said at the end of the last hearing, the cost differential from lifting and moving forward and lifting has one. And we wanted to gage the risk of the two and one of the items in the packet is an Estimate from Davis Construction. Our plan calls to lift and put helical piles under it, and the estimate is \$125,000.00; if we were to pick the house up, move it away and build a foundation and move the house back that's \$175,000.00 so there is a significant difference. If the plan were to lift and move it forward is another \$18,000.00 on top of the \$175,000.00 and the difference is almost \$200,000 versus \$125,000.00. The other more important thing is do we put it at greater risk by moving it forward, and the opinion of Mr. Davis and John Condon is yes. You can read the details in our submittal and the risk is increased by moving it forward and lifting as opposed to just lifting it. A consideration in Mr. Condon's letter is the five (5) fireplaces that have to be lifted which are in good shape, and you should not tear them down and throw them away; they survive much better lifting only. They also discuss the risk of lifting and moving a long narrow structure as far as cracking features. There are a lot of details that will be put at risk if it was to be lifted and moved. In Mr. Condon's letter, his conclusion is that we do not recommend moving his structure.

Mr. DelGiudice said they are going to work under the house? They will sure it and work under the house?

Mr. Rosensweig said yes. It is very common.

Mr. DelGiudice asked if Mr. Hammond has ever seen that?

Mr. Hammond said there was a house on 45 Oneck and not on helical piles; 3,000 square feet or 4,000 square feet you can helical under it.

Mr. Pasca said he has a question about the math.

Mr. Rosensweig said the risk is more substantial than the math.

Mr. Pasca said the estimate says to move off footprint and on to new is \$175; lift house up and hold on steel it doesn't say new foundation \$125 and then to move on to new foundation additional \$18; I don't see how you get \$175 plus \$18.

Mr. Hulme said to move house back on to new foundation.

Mr. Pasca said the first option says to move back on to new foundation as if that's included.

Mr. Hulme said it's moving the house off the existing foundation, putting it aside, construct a new foundation and moving it back to the original location; the additional \$18 is to move the house forward.

Mr. Rosenswieg said the \$18 is to coordinate with the contractors.

Mr. Hulme said even if you throw the \$18 out, there's still a \$50,000 difference but more importantly is the risk to the home which is the true risk.

Mr. Badzik said they can move it forward and not move it back if we shift the location.

Mr. Hulme said the lifting and moving is what adds to the risk.

Mr. Musnicki said this is the third meeting that this has been before us, each of the three times the Board has focused on the lifting and moving, I am surprised neither Mr. Davis and Mr. Condon are not here and are representing them through letters and I have a lot of questions about how this is done and I would rather talk to the person doing it, rather than describing it off of a piece of paper. I am shocked you would not have them.

Mr. Piering said you did say you'd try to get them here.

Mr. Rosensweig said he's lifted 15 houses and can answer any questions. The architect engineers all of the footings and foundations and locations, and the heart of these letters is the risk factor of John Condon who has written a report after reviewing the house and that's simple from him in terms of what we've asked him to do. I can answer any questions about lifting the house. Guy Davis can't answer questions on helical piles, he is doing the lift and the drop.

Mr. Musnicki said he'd like to talk to Guy Davis because he is an expert at lifting and moving houses.

Mr. Rosensweig said Guy Davis' job is to lift and drop.

Mr. Musnicki said we knew the risk of moving versus lift.

Mr. Rosensweig said we couldn't know until we spoke to the person doing it, so now I come in with that letter and more certainty to what he thinks. Guy Davis put a letter together for that purpose. In terms of the lift he will be lifting it and dropping it.

Mr. Musnicki said Guy Davis' letter is very brief. He'd like to talk about it.

Mr. Rosensweig said what he's written and very clear.

Mr. Badzik said it says its less intrusive.

Mr. Hulme said it's hard to gage the risk because it's a unique house. This is a unique situation where we're trying to preserve a building.

Mr. Wittschen said I don't know, I had Guy Davis raise a house for me, and he doesn't do a lot of talking.

Mr. Piering said we asked for an Engineers report and we have a one paragraph opinion. We're not getting a strong enough argument.

Mr. DelGiudice said he's saying there's more risk, so we got a letter saying that its \$68,000.00 more and someone says there is potentially more risk in moving, but you're asking for a substantial variance.

Mr. Pasca asked if this becomes a template for not wanting to move a house off of the Dune.

Mr. Hulme said if that was the only piece of information on this project as a whole, yes the danger would be that's a template for future cases. But there's no other house on Dune Road that's situated as this.

Mr. DelGiudice said it's in the Dunes, you're asking for over 6,000 square feet but I think in the Village has a 6 bedroom maximum and this house is at 7 bedrooms. I recall talking about that before this Board. Someone has to write this and we don't know how to. You are doing a substantial renovation, right?

Mr. Rosensweig said we're not adding any bedrooms.

Mr. Hulme asked for another house on Dune Road that has these facts. No other houses have three lots, basements, are 100 years old. This is a pretty special and unique situation.

Mr. Pasca said we can also say no other houses have that much front room where this can be moved. I have never seen an application with a negative setback to the dune crest. You are arguing historic that's a big factor but you're also looking at an application to build in the Dune Crest.

Mr. Hulme said we're allowing the dune to grow too.

Mr. Pasca said it's a negative setback to the dune crest, it's still on top of the dune.

Mr. Hulme said I looked back at that history of that section, it's just a setback.

Mr. Pasca said you've done enough to know this Board values that setback a lot.

Mr. Hulme said yes, in a simple area variance. Not in the context of environmental analysis and preservation of the dune. The Village, at the time they adopted and changed the rule of how to measure that setback was to measure the density of homes to be built. Not a single word in the testimony to the Trustees had nothing to do with the preservation to the dune, only anchoring the rear yard to some feature. It needs to be looked at in the context of the balancing test. We're not getting closer to a neighbor, it's the granting of this variance from an area variance perspective.

Mr. Musnicki you are saying that the Coastal Erosion Hazard Zone would not be considered as part of the balancing?

Mr. Hulme said yes, that's correct. That's a separate analysis. But you are talking to me about the rear yard setback which in the ocean side of Dune Road is measure from the Crest of the Dune and the Village adopted the change to create that as the rear yard setback they were not doing it out of environmental concerns.

Mr. Musnicki said the answer is we still use that as part of the balancing test. If that's true, how do we get past whether the benefit sought by the applicant can be achieved by another method.

Mr. Hulme said you have to analyze that in the context of what the desire of the applicant is. The applicant is the desire to keep it where it is.

Mr. Musnicki said every applicant has the desire to do that. That's why we're here.

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Mr. Hulme said you can't just say do this, you have to say you can accomplish your goals without this variance by doing this. One of the goals is to maintain this 100 year old house.

Mr. Musnicki said can this be achieved in another method, yes or no?

Mr. Hulme said can the benefit the applicant is seeking here be achieved by another method, no.

Mr. Pasca said he can build this house somewhere else. In every case define the benefit the exact proposal we're making is the applicant seeks. Then there is no other benefit, I want this exact plan and nothing else will satisfy me therefore there's no reasonable alternative. I will not accept moving it 1' to the North.

Mr. Hulme said in that context you can decide whether its within the scope of the applicants goals or not.

Mr. Musnicki said that's the only context because then the applicant can do what they want to do.

Mr. Hulme said all of the factors have to be balanced together.

Mr. Rosensweig said there are a lot of parts that are staying as is; he needs to lift the home to meet the requirements of FEMA. They want to preserve this home, there are multiple rooms not being touched; a large majority are not being touched, the dining parlors, the sitting rooms, the chimneys.

Mr. Piering asked who is requiring the lift?

Mr. Rosensweig said to do any renovations we are required to lift it.

Mr. Piering said it's 50%. You have maintained presentations there are no problems with flooding.

Mr. Hulme said no if we move forward we're moving toward flooding.

Mr. Rosensweig we presented a lot of clear data.

Mr. Hulme said the compliance with FEMA benefits us, but there is a benefit to the Village in that too.

Mr. Pasca said there is also a FEMA X Zone on the property you can move to.

Mr. Hulme said we are giving and getting. If we were to build a new house with no variances, what would be the benefit to the applicant when the goal is to preserve the home. The balance is between the extremes.

Mr. Piering asked how big the renovation is, is it over 50%?

Mr. Rosensweig said yes, it will be.

Mr. Hulme said there is a benefit in lifting the house.

Mr. Piering said we are hung up on one issue and that's moving it out of the dune and every single application that's ever come before us has done that.

Mr. Musnicki said what happened was, I was hoping for a professional house mover to make a presentation so we can drill in to this to find out the downside of moving it.

Mr. Hulme said we could get someone to come, but if the real answer is move it or not.

Mr. Piering said we are going around a lot and I think that you are not required to do anything.

Mr. Hulme said yes, we could leave the house the way it is. But, this process exists so the applicant can achieve some benefit.

Mr. Piering said if he put this in front of the Coastal Erosion Hazard Area and you'd still be 200' off of Dune Road, you won't be right on Dune Road.

Mr. Hulme said it's the expectation of the home and we want it to stay in that location.

Mr. Musnicki said that's the point they want to keep it where it is.

Mr. Hulme said yes, but further there is no other home in this community that has those same attributes.

Mr. Piering said we had other applications where we made people move them, and they moved it back and built a nice new house.

Mr. Hulme said yes, we are talking about preserving something; we're talking about giving enough that we see the benefit to the Village and FEMA compliance and modernization and eliminating a non-conforming structure; giving up the basement; giving the Dune more freedom to grow if it chooses to and it seems to be it's a unique set of facts that granting the relief that the applicant is seeking is not offensive to the history of the board for new construction. The battle is that it's brand new most times, we aren't building new.

Mr. DelGiudice said that's not true, it's a substantial renovation.

Mr. Pasca said it's not minor.

Mr. DelGiudice said it is so substantial, he's replacing siding, roof, maybe there's a different means. It's more than 50%.

Mr. Hulme said the shell of the house is not changing.

Mr. DelGiudice asked what difference it makes, it will be 50% of a 100 year old house.

Mr. Hulme said it will still have the same features of the 100 year old house.

Mr. Rosensweig said the blueprints will show what is existing and what will change, and people come back to the ZBA saying they did not anticipate something we're keeping all of the exterior elevations, renderings everything is a full set of plans that are dictating the terms of the renovation not the potential of it.

Mr. Pasca asked what the working budget is.

Mr. Rosensweig said the 50% renovation is based off of the tax appraisal. The Tax appraisal only allows 2.2 million dollars on a 110 year old house.

Mr. Pasca said his question was not tied to the 50%.

Mr. Hulme said it's in the file, and it will be reduced slightly but we're looking for the restoration variance.

Josh said the overall square footage is almost 25% of what we've reduced it by. I don't want to keep saying this because our drawings are the relationship.

Mr. DelGiudice said I am going to speak for myself, and from day one when we first met we said where it is on the property that was the problem; I said I am not looking for something conforming but movement and as a variance I see this as substantial, and you came back and you guys put the mechanical space moved slightly but there are two large variances and I was hoping to see

something more. You have two substantial variances and you made no changes for me it's a tough sell. I have been here for a long time and everyone has said that; it's unique.

Mr. Rosensweig said if we move the house, how much would we? Lifting the house for FEMA is better but to move the house to the X Zone you aren't required to do any of the FEMA elevations.

Mr. Hulme said he's not suggesting we move it that far.

Mr. Rosensweig said I felt like at the last hearing we were in a good place, and it would be nice to see a reduction on the GFA but I don't remember the location being a consensus, I thought the GFA was the big thing.

Mr. Piering said the movement was the big thing, when we get down to the bottom line it is you don't want to move it. We have that established, you aren't moving the house. Now we proceed with, do we have any other questions.

Mr. Hulme asked if they could have five minutes?

Mr. Piering said yes, we can call the next application.

Mr. Hulme asked to holdover the application.

Mr. Piering said okay.

Motion was made by Mr. Piering to holdover the application of **Crampton Society, LLC., 119 Dune Road (905-21-3-8)** to February 20, 2020; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS

4. Francis & Donna O'Conner, 16 Oneck Place (905-009-03-035) Applicant requests variances from §197-6 D to construct an addition with a front yard setback of 38.9 feet where the minimum setback required is 50 feet, and to construct an addition with a rear yard setback of 47.6 feet where the minimum setback required is 50 feet.

No one appeared on behalf of the application. Aram Terchunian submitted a letter to withdraw the application of **Francis & Donna O'Conner, 16 Oneck Place (905-009-03-035)**.

Motion was made by Mr. Piering to withdraw the application of **Francis & Donna O'Conner, 16 Oneck Place (905-009-03-035)** without prejudice; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

5. Joaquim Martins, 39 Harbor Road (905-17-3-29) Applicant requests variances from §197-5 A(1) to construct second-story additions within required side, combined side, and rear yards where conformity is required for additions, §197-34 A(5) for a proposed habitable floor area that is 42.2% of the lot area where the maximum permitted is 20%, and from §197-35 C to construct a second-story deck with setbacks of 7 feet where the minimum required is 20 feet.

Jack Martins, appeared on behalf of the application, together with his architect Daniel Kissinger. They purchased the house in October and it's a four-bedroom house that's older built in the 1960's. The second floor was put on in the mid 1970's and it was placed on top of the roof of the first floor so the shingles are still there, if you look at it there's an incline to that. We'd like to renovate this house and take the second floor and move it out over the existing first floor and we know it's non-conforming not only on the side but in the back, it's odd and not rectangular. In order to do that we require area variances. There was a circular stair within the house and we'd like to replace that with a conventional stair and to do that we'd get a credit and we did that purposefully to not increase the floor area so the variances would only be the side yard and the rear yard variances that we're requesting. It allows us to update the house, it's not Winterized and we like to come out here during other seasons. This is our home and we want to make this investment; we love the location and if we are going to update the house we'd like to use it more efficiently.

Mr. Piering said you are not increasing the habitable space?

Mr. Martins said we are not. The house is currently four bedrooms which will remain. Three are on the first floor and one on the second, and we'd like to move the bedrooms to the first floor and move the common space upstairs, it will be an upside down house and be able to use it that way. We would like to insulate it and use it year round. If we make that investment it would be helpful to use it more and have a conventional stair in there to do so.

Mr. Musnicki said on the survey from Scalice from last year, what is the lot coverage right now? I do not see it on there.

Mr. Martins said they calculated it at 21.1%.

Mr. Musnicki said we need that verified by a surveyor. I don't know how much further we can go without that.

Mr. Martins said he appreciates that, and if he may we aren't extending beyond the non conformity and I'm not asking for more square feet or inches in to the side yard or rear yard we're staying above the house that's there now we're just extending the roof angle on the walls on the second floor and moving them 3' on either side and on the front and back we're flattening it and making it conform to the first floor and making room to allocate for a conventional stair. Whatever the calculation made was is not being increased.

Mr. Wittschen said that's okay but we still need it.

Mr. Musnicki said he does not see them speaking to the septic. Is there a new one being constructed?

Mr. Martins said there is none, but if there is no change in the number of bedrooms it's not a requirement. But, as part of that we are looking at it and he prefers that, the house behind this has a new system and I think that would be the right place to put it.

Mr. DelGiudice said the confusion is there is a site plan with V12 and you're showing an envelope of 38.2 by 24.1 and you're saying you're not going outside of that. That envelope will not be extended? There is an existing rear deck, so you're not touching the rear deck but adding a deck on to the second floor?

Mr. Martins said yes, the deck that they are proposing will stay within the line of the house on that side.

Mr. DelGiudice said the percentage of lot coverage is confusing, he is not understanding it. Total lot coverage required permitted is 40% and provided is 34.5%.

Daniel Kissinger said that's his understanding.

Mr. Wittschen said what you have to do is get a new survey, with existing and proposed.

Mr. Badzik said the advertisement says the lot coverage is 42.4%.

Mr. Pasca asked to hear from Mr. Hammond.

Mr. Hammond said we often say a survey is done by a surveyor, there is no law or reason that says a NYS Licensed Professional Engineer or Architect cannot produce a plot plan and there's no reason you can't use an architect to perform a plot plan. But it's not required for the title survey but it's been pointed to by the engineer. All of these calculations should be good enough, if the Board does approve a variance and we issue a building permit there will be a final survey performed by a licensed surveyor and checked to the approval. The idea on the newest plan will be the same after so that variance would no longer be needed, its staying within the same second floor balcony space over a first-floor deck.

Mr. DelGiudice asked if it's in the within existing envelope?

Mr. Hammond said they are not new front yard setbacks or side yard setbacks but they are adding gross floor area within required setbacks within an existing covered area and the deck would be completely new, so they are not increasing lot coverage or habitable floor area, just adding the floor and deck space.

Mr. Martins said to add the footprint is about 920 square feet, the lot is 4,363 square feet and that's the 21.1%. The floor area takes in to the first and second floor deducting the staircase and outdoor porch on the second floor.

Mr. Hammond said the 21.1% is not entirely accurate because it does not include the first floor deck.

Mr. DelGiudice said there are two numbers on there.

Mr. Pasca said I don't know if the plans will be tweaked, but there's a dimension wrong on the plot plan, it should be 70.5; the front yard width is 52.05' along Harbor Road, and it should be according to the survey 70.5'. It may be a typo, if you're going to change the plan that needs to be corrected.

Mr. Martins asked if there were any other questions.

Mr. Piering said the second floor deck is a large deck, how many square feet is it?

Mr. Kissinger said it will be 316 square feet.

Mr. Piering asked how it will impact the neighbors?

Mr. Kissinger said the neighbor to the right has one already, and this is over an existing deck.

Mr. Martins said there's mirrors the first and second floor.

Mr. Pasca asked if that's the North or South side?

Mr. Martins said North. Because of the hope to do this, the second floor deck will be more used, the first floor deck is existing and rather than tear it down we proposed this.

Mr. Piering said okay. He asked if there were any questions. He said if something happens with these numbers, the final survey will have that. You can't come back to us and say there was a mistake.

Mr. Martins said yes, he understands.

Motion was made by Mr. Piering to close the application of **Joaquim Martins, 39 Harbor Road (905-17-3-29)** for a determination pending the receipt of the revised plans; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

6. Sandpiper at Westhampton Beach LLC (Jeffrey Zuckerman & Shari Israel, Joseph Sanchez), 473 Dune Rd (905-16-2-26) Applicant requests a permit from the Zoning Board of Appeals pursuant to §197-29 C(1) for proposed alterations to combine two one-bedroom dwelling units, designated 10A & 11A, into one two-bedroom dwelling unit within a preexisting nonconforming multifamily coop building.

Debbie Kropft, Architect said it's on the first floor of the building and the owner has purchased one of the units and is in the process of purchasing another. As you know, the building was built in 1960 and had 54 units and before the fire a few had been combined, and after the fire and these two had originally been a two bedroom unit, when they rebuilt the Sandpiper they made them separate. I realize that doesn't matter but it's the history of the property. According to the zoning regulations we are applying for variances and there are conditions and criteria and this is just an interior alteration. There will now be 49 units after this complete.

Mr. Pasca said we have seen this application a few times.

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Mr. Piering asked if there were any other questions.

Motion was made by Mr. Piering to close the application of **Sandpiper at Westhampton Beach LLC (Jeffrey Zuckerman & Shari Israel, Joseph Sanchez), 473 Dune Rd (905-16-2-26)** for a determination; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.

Motion was made by Mr. Piering to adjourn the meeting at **6:15 p.m.**; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.