

November 21, 2019

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, November 21, 2019, 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

October 17, 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.

Aram Terchunian, First Coastal Corporation appeared on behalf of the application.

Mr. Terchunian said the applicant has done a small redesign on the North end of the house and will require a new rear yard and he would like to request that the Board re-open the public hearing so they may re-apply and re-advertise the application.

Motion was made by Mr. Piering to re-open the public hearing on the application of **Francis & Donna O’Conner, 16 Oneck Place (905-009-03-035)**; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS:

2. Shane & Jacqueline Peros, 222 Oneck Lane (905-010-01-002) Applicant requests variance from §197-6 D to construct a two-story addition with a side yard setback of 20.2 feet where the minimum setback required is 30 feet, and, with a one-story screened-porch addition, the applicant requests variance from §197-6 D for a proposed combined side yard of 50.5 feet where the minimum combined side yard required is 70 feet.

James N. Hulme, Esq., appeared on behalf of the application, together with Jason Ormond, Architect. He said that they are here to request side yard relief to expand an existing home built on a narrow lot.

Mr. Piering asked if they have the 150’ required width?

Mr. Hulme said yes, that is what is required. The house has a pre-existing CO and it goes back a long time. The lot and the lots in this area and adjacent to this area are all subject to a 1932 subdivision that went through three (3) up zoning; Originally the lot was zoned R15, then it was zoned R-20, and if it remained R-20 no variance would be needed to do what is proposed. It was then rezoned to R1 which requires 1 acre lots, and 150’ width, 30’ side yards and 70’ total side yards, therefore to do the proposed additions and renovations the variances are needed. The applicant is proposing a second story addition, with a garage and to turn the existing garage into habitable space. There are houses in the neighborhood developed and 226 Oneck Lane has one side yard 21.3’ and 93 Oneck Road has one side yard 29.9 and 26.6 and 220 Oneck has a side yard of 25’. There are houses that have reduced side yards and total side yards and there are a few different ways to look at this, and it was a victim of the continued up zoning and in my estimation the R1 Zoning for existing lots of the size is onerous. The Village saw fit that it was zoned R-15;

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and R-20 still fit the character of the neighborhood and the R-1` is an acre lot but none of the lots on Oneck Lane are one acre so the hardship that's create4d is putting a greater limit on the lots. In addition, there is a small lot benefit in the Code but it doesn't apply because this is too narrow and too small and that would eliminate the variances if it did apply. I went through the balancing test, but again as I said the applicant is looking to increase the space for his family.

Mr. Musnicki asked him to speak to the feasible methods.

Mr. Hulme said if we go forward, we need front yard relief, and in the rear part of it is cut off by the pool. The additions need to compare to the functions of the house. The house flows North to South so that's why the addition is on the North.

Mr. Piering asked him to go over the roof deck and he's concerned it will impact the neighbor.

Mr. Ormond said the roof deck is off of the master bedroom in the rear of the house, it is shown on A06 in the drawings, there is a privacy wall on the North side of the roof deck.

Mr. Piering said that is what he's looking at, and the roof deck will be on the North side of the house which is closest to the neighbor, how far back is that?

Mr. Ormond said it will be 20.2'.

Mr. Hulme said it's more than 20'.

Mr. Ormond said it's 25.4'

Mr. Poiering asked if there will be impact on the neighbors? He does not want to see that.

Mr. Ormond said no.

Mr. Pasca said if the 4' privacy wall is shown on the plan?

Mr. Ormond said no.

Mr. Pasca said if it's a mitigating condition it has to be a condition and shown on the plan, and it has to be a condition of the approval.

Mr. Hulme said he will submit that.

Mr. Piering said okay, he wants that shown on the plan.

Mr. Pasca said it must be received and the closing of the hearing is subject to the submission of the modified plan.

Motion was made by Mr. Piering to close the hearing of **Shane & Jacqueline Peros, 222 Oneck Lane (905-10-1-2)** subject to the receipt of the modified plans; seconded by Mr. Bazik and unanimously carried 5 ayes, 0 nays, 0 absent.

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, Chuck Bowman, LandUse Ecological Services and the property owners. His client purchased this home in May of 2017 and it is a VE16 FEMA Zone in the R-3 Zoning District on the ocean. It is a two story single family dwelling, with deck, patios, pool house, pool, and the house was built in 1909 and they have provided the Board with a lot of Historical information on the property and it's a well known house in the Village, and the applicants goal is to modernize the house built at the same time be respectful of the unique history. It is one of the few houses on Dune Road that survived the Hurricane of 1938. They proposed change are very little in an effort not to harm the appearance of the house as it exists today. They are proposing to lift the house to conform with todays FEMA standards, and in doing so they will eliminate the basement and install a pile foundation. They will be removing a patio and retaining wall on the ocean and replacing that with an elevated deck and doing additions to the street side of the house of 314 square feet. They are demolishing the existing garage and constructing a new garage in a conforming location with internal renovations to the house and pool house. Everything that is on the property has an Updated CO, and the overall impacts some benefit nature and some the applicant and one goal is to modernize the inside of the house. As grand as it appears, it is relatively narrow so by doing the small addition to the front it provides more space. The additions are only a footprint of 314 square feet and some will be consumed with mechanicals that are now in the basement and will need to be relocated.

Mr. Rosensweig said the lower level of the house functions for the housing of the mechanicals and upon the lift we have to find a home for all of that displaced mechanical equipment.

Mr. Hulme said as they discussed the work contains the historic integrity of the exterior. They are removing the patio and retaining wall on the ocean side and whatever we decide the dune is, is now free to flow under the house which is truncated by an existing retaining wall. If they do the Lift of the house to conform with FEMA they can do so with just a building Permit. But the part of the project that needs to be considered and not necessarily needing a variance, but part of the project and creates issues as indicated in the public notice there are a number of area variances. There's a proposed addition less than 75' from the Dune Crest; they are seeking a height variance, and a habitable space variance in excess of 6,000 square feet and a variance for the ocean side deck. The other area of variances they discussed is the Coastal Erosion Variance and whether or not what we're proposing requires one. Whether we are in the primary dune area or the secondary dune is what determines whether we need a variance or not. This is an ongoing discussion and I will concede that in the past there was a rule of thumb that the landward dune is the primary dune. The second element is substantially whether the dune is a minor pile of sand, or whether it's a significant functioning dune. I don't read it to mean tis the bigger of the two, I think if you look at the lines and go to the property you'll see that there are two dunes and they are both very big and I don't think one is significantly more substantial than the other and they are both substantial in their own right. The next element has to do with the Code and one or more relatively small dune exists seaward and I'm not sure you can define this as the seaward dune as relatively small. And I think that the last thing I want to talk about is the continuity of the seaward dune versus the secondary dune and what is shown here and there are views East and West of the subject property identifying the two dunes and in our estimation, the seaward dune is the dune that goes up and down the coast line and what is the secondary dune trails off as you go East and West from the applicants house. Based on our view of that the seaward dune should be the primary dune as it pertains to this property.

Chuck Bowman said that it is an interesting discussion all over the Atlantic Coast, and we know Chapter 74 has the Code requirements that Mr. Hulme discussed, but as an Ecologist we look at what makes a primary dune and if you go to this property it is evident that the seaward dune is the primary dune because its vegetated with beach grass and the other vegetation that is indicative of a primary dune; secondary dunes if you will, tend to be more stable than primary dunes; they also invite other vegetation and on this property as you go North past the landward toe of the primary dune it is a monoculture of beach grasses and it's very high and stable you start to see woody vegetation and beach plum and bayberry and as you go further North you see woody vegetation

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there and that's indicative from an ecological standpoint as a secondary dune or a back dune. And I think that in the CEHA regulations and your interpretation that was the spirit of it. We also showed an area of what would be restored, and the species of plants that would restore the dune are the back dune species which would not survive in the primary dune.

Mr. Musnicki asked if he would consider building a home on the secondary dune?

Mr. Bowman said on a vacant lot, I would go north of the Coastal Erosion Hazard Line, but this house is there and you have to be careful, but it's not going to propose a hazard to the secondary dune.

Mr. Wittschen asked how far the house is from the seaward dune?

Mr. Hulme said it is approximately 200'.

Mr. Wittschen said you are going to disturb the secondary dune when doing this work.

Mr. Rosensweig said the restoration of the dune will make it stronger.

Mr. Hulme said it's 260'.

Mr. Wittschen said okay.

Mr. Bowman said in this case it is clear cut what is the primary dune and what is the secondary dune.

Mr. Hulme said that is what their restoration plan is, and he thinks at the end of the day you will wind up with a better dune.

Mr. Bowman said in this instance the primary dune is in tact and the house will remain as open space, dune area.

Mr. Rosensweig said it yields a house with Velocity Zone standards as opposed to a house with a concrete basement and foundation walls, and you are in the spirit of wave action. Now there's a dune being rebuilt and a pile structure with sand and left to run the sand underneath.

Mr. Musnicki said this home has existed over 100 years, the primary dune feeds the secondary dune, correct?

Mr. Bowman said it's fed from the beach.,

Mr. Musnicki said as we move forward by decade, I would assume that secondary dune is moving.

Mr. Bowman said it will probably grow in size with no severe erosion to the primary dune. The primary dune can be eroded way and will be rebuilt through natural processes, but the secondary dune is very stable.

Mr. Musnicki said it will grow, and it won't move but if its going to grow the new elevation of the proposed house is 3' to 4' higher than where it is which brings it to the crest height of the secondary dune where it is now. How will that impact it?

Mr. Bowman said by nature of barrier dunes they migrate North. If you get a bad storm, they will get a lot of sand in their driveway from the storm and the dune migrates North. It also comes to whether or not there's proactive management of the secondary dune, I always recommend snow fencing to catch as much sand as you can to build the height up so there is as much protection as possible.

Mr. Musnicki said as proposed the deck is in the secondary dune, and if you are only gaining 3'.

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Mr. Rosensweig that's opposed to the concrete wall that exists.

Mr. Bowman said sand can build up and will fill in below the piles, but the advantage is if you get terrible wave action there's no barrier there to allow the water or the velocity waves to go North which is the purpose of FEMA.

Mr. Musnicki asked if there's a breakaway area?

Mr. Rosensweig said there's down to grade posts and the replenishment of the dune and filling in where that cut is, and bringing that sand back in and the natural grade and topo is the point where a breakaway structure comes down to grade. Right now, it creates a danger, and with a wave action and by doing this it will be more in line with FEMA standards.

Mr. Bowman said you don't want it like that, you don't want the wave energy reflected somewhere else.

Mr. Hulme said this project will eliminate that.

MR. Musnicki said the homes on the East and West have more substantial dune in the front of them.

Mr. Bowman said the primary dune is substantial, and then we're going up and again you look at the vegetation to see how stable it is. You want to catch as much sand as you can in the back-dune area.

Mr. Piering asked if there are a few different zones here?

Mr. Hulme said they are in the VE 16.

Mr. Rosensweig said the main house will follow the VE Standards.

Mr. Piering asked if there is an X Zone in the front?

Mr. Hulme said there's a small picket; it's a VE 16; AE 7 and X and then the road.

Mr. Piering asked if they are going to lift this house?

MR. Rosensweig said yes, by 3'. There are a few things that they lose, and they are what FEMA would consider to be not sound in terms of FEMA goals. The portico is not on pilings and cannot be lifted and at the end of the day it allows them to have more of a less cavernous approach. They are keeping in character of the house, but they are getting rid of the basement and in lifting it all of the things coming out of the basement have to find a new home. The patio that cuts in to the back of the dune will be replaced with a piling and whaler structure system, I would challenge that they'd survive another storm. I feel confident that the wave action going under the pilings will not destroy the house.

MR. Badzik asked how they are lifting it?

MR. Rosensweig said 3'. FEMA has methods that we have to follow and the engineers do too. There are prescriptive methods and there are wave action numbers that we have to follow.

Mr. DelGiudice asked if the 3' lift brings them to 49.65' height.

Mr. Rosensweig said yes.

MR. Piering said you are already over the height and you want to go higher?

Mr. Rosensweig said yes.

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Mr. Piering said you are going to raise this house, install pilings, why can't you move it forward when you raise it?

Mr. Hulme said this is an iconic house and we have been very cautious with the architecture so we don't have a new house at the end of the day. It is in its location and we'd like to keep it there.

Mr. Piering asked if it's a cost factor, and instead of looking to build a deck in the dune, you can't move it forward which is what we try to do with every house on Dune Road.

Mr. Hulme said this house needs to be where it is.

Mr. Rosensweig said moving the house will diminish the value of the property and it's not the primary concern.

Mr. Pasca said but you're lifting it at the same time,

Mr. Rosensweig said this is the position it has had for 100 years and we'd like to keep it. The garage is in the CEHL and that's being removed and being moved to a conforming location at the risk of trying to be more conforming and that's substantial. No one can build a garage South of the CEHL.

MR. Hulme said if you look at it sequentially we could have gone for a Building Permit to lift the house with no variances, we could have waited and come back and looked to do all of these other things which require a variance but then it becomes more cost prohibitive to move the house forward at that point so you'd evaluate those variances in the context of a legally existing CO house in that location already elevated and we're asking to not do that in two steps.

Mr. Bowman said the CEHA regulations are looking to not increase the encroachment and that's our big lift and you can do that by removing structures, and not extending anything seaward in to that CEHA and those are points we come up with all of the time. But as long as you're not encroaching more in to the CEHA and in to it.

Mr. Pasca asked how they are doing that.

MR. Bowman said the garage is being removed.

MR. Pasca said the proposed deck is in it

Mr. Rosensweig said they are not increasing the footprint 1" further than already exists; all of the increases are Northward.

Mr. Hulme said they are taking a significant structure out of the dune.

Mr. Pasca asked if there's an existing conditions survey.

Mr. Rosensweig said it will be one elevated deck not extending to the South by 1".

Mr. Hulme said in the submission there's an existing survey.

Mr. DelGiudice asked where the mechanicals are going?

Mr. Rosensweig the attic and in the footprint. They have increased the first floor footprint to make way for the mechanicals. They are netting a lot less than they are losing with the basement. But all of the accountable space is making the house work and the amount they are losing and asking for a variance for to make way for all of this, we are only asking for 25% for what they are losing.

Mr. Pasca asked if the additions in the front are new or existing footprint, are they in the CEHA.

Mr. Rosensweig said yes, but they are not retreating further.

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Mr. Pasca said but they are still in the CEHA, and that increases it.

Mr. Bowman said there are two components; one is the encroachment to the South, CEHA allows for 25% expansion to the North never to the South.

Mr. Rosensweig said they are less than the 25%.

Mr. Bowman said the whole goal is to reduce the footprint.

Mr. Pasca asked how that's happening?

Mr. Bowman said the garage.

Mr. Pasca said there is a tiny number in the CEHA.

Mr. Hulme said the basement will.

Jeff Drubner, homeowner said when they thought about this they thought about moving it, and what was interesting in Hurricane Sandy the stormwater did not breach the most seaward done but what did breach was the bay side there is a spinnaker and a condo and marina on the bay side and that gets flooded all of the time and the water came 50' to the front door from the bay side there is more of a risk and he said that everyone is looking to the ocean, at these storms the bigger risk is from the street.

Mr. DelGiudice asked if its tidal surge he's referring to?

Mr. Drubner did not know.

Mr. Bowman said the water does breach from the bay to the ocean but he cannot speak to this location.

Mr. DelGiudice said he has not seen it in that location, rain is very different from tidal surge.

Mr. Hulme said the risk in a storm to this house is from the street.

Mr. Drubner said it is confusing, the deck that exists has a stone wall in o the dune and then there is a cemented patio and our house, all we are doing is raising the patio and the patio is the exact same size as it exists today. We are raising it up so the sand and water can flow under the house.

Mr. DelGiudice asked if there is a 6 bedroom maximum in the Code? I counted seven bedrooms, and if we are reviewing all of the variances we have to make sure.

Mr. Rosensweig the CO is for that.

Mr. Piering said they are entitled to it because it's pre-existing. The fact that you make a bedroom is a study does not matter.

Mr. Rosensweig said they are not increasing the bedroom count.

MR. Pasca said that's for Mr. Hammond to review.

Mr. Hammond said there is a definition for dwelling units.

Mr. Rosensweig said there is a CO for it.

Mr. Hulme said it's subject to the building inspectors review and we would ask for that variance as well. As I was saying in the context of this house, the variances are minimal and the two small additions are to an existing house and we put them as far from the Crest of The Dune as we can.

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The height is driven by the lift for FEMA. The habitable space is 5,978 and we will be 6,907 but to get there we are eliminating almost 1,000 square feet of basement, but its useful space and has to be replicated elsewhere in the house.

Mr. Piering said you are increasing the habitable space for the mechanics.

Mr. Rosensweig said yes, we have to redistribute the space. There are no major modifications taking place. The staircase is not being touched.

Mr. Hulme said the variance for the deck is going no further relative to the Crest of the Dune.

Mr. DelGiudice asked what the increase of 907 was, and what was it?

MR. Hulme said it was 5978 not including the basement.

Mr. DelGiudice asked where that 1,000 square feet is.

Mr. Rosensweig it is sprinkled throughout towards the North. There is no increase to the South.

Mr. Musnicki asked if Mr. Hulme had more to add.

Mr. Hulme said assuming you conclude that the primary dune is the landward dune then we do need a restoration variance; if you agree the seaward dune is the primary dune then we do not need that variance. This house is 100 years and iconic and historic and needs to be modernized and will be costly and we will take any mitigation required and appropriate and if you deem it a restoration, and a factor for CE is safety for flood and erosion damage and we make it more resistant and for our property and the adjacent properties and we are doing what's necessary and not much more.

Mr. Musnicki said this is a very important application and touches on a lot of points and things, and some of the heavy lifts he sees is that its in the VE Zone now, and the VE 16 and you have the availability to move it in to the X Zone and eliminate variances; it is in the CEHA and the Crest of the Dune by 5' and the house itself is at the Crest of the Dune and in essence I would like to see some movement in both of those areas.

Mr. Hulme said the issue is that we can withdraw this application, get a permit to lift the house where it is and come back in a year and apply for these variances which is a much better case.

Mr. Pasca asked where they'll put the mechanicals if they do that. How do you lift the house as of right if you don't have a place for the mechanicals?

Mr. Hulme said we can convert a bedroom but we don't want to.

Mr. Pasca said it's a hypothetical, you're lifting the house and can move it forward.

Mr. Hulme said it will affect the value of this house to the community, and part of the unique nature of this house is its style and location and we're trying to be respectful of both and make the circumstances better.

Mr. Musnicki said there are lighthouses that are moved throughout the Country.

Mr. Hulme said our dune has survived well and we are meeting the VE 16 requirement and the Code requires us to be at VE 16.

Mr. Pasca said that's causing a height variance, if you move it out of the VE you wouldn't need it.

Mr. Rosensweig said the pocket X does not run East to West, we would never get an X Zone it will always be the more stringent. It would be more in the AE Zone if we move it up to the road.

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Mr. Pasca said there is a lot of room between the two zones. Unless you bring a map in that shows the house can't fit in the wide swath.

Mr. Rosenswieg said you're asking us to move the house 50'?

Mr. Pasca said yes, the code requires a 75' setback from the Crest of the Dune, you can put it out of the CEHA and out of the VE Zone and in an area that doesn't need the dune crest setback and won't need variances.

Mr. Hulme said the variances are small. The 75' setback on the opposite side of the structure,

Mr. Pasca said the 1,000 square feet of floor area is generated because you can't have a basement; it's a lot of variances.

Mr. Hulme said but it will improve the flood damage protection. There's a positive impact on the dune and it's a balancing test and we're looking at the benefit versus the detriment and the benefit outweighs the detriment. I personally think it would be a shame to move this house down to the gully below the swale.

Mr. Musnicki said they are looking for movement, and you seem to be stuck on your position. But that's probably not the way to go.

Mr. Hulme said he knows. We thought it was in our best interest to talk to you about everything.

MR. Musnicki said you know this Board's position.

Mr. Hulme said if this was granted, I would have a tough time citing it in another case.

Mr., Pasca asked why, if this board grants this and they do not have to comply with the 75' dune crest even though there's 260' in front of it, How do you not use it as precedent.

Mr. Rosensweig said there are not any 300' front lots in this area.

Mr. Pasca said the board requires people to get close to the street and request those variances in stead of the dune crest and you can here two or three times.

Mr. Rosensweig said the uniqueness of this is the value that far exceeds other applications. In terms of the existing condition of this house in its current location, I don't know how many exist this close to the CEHL in this area.

Mr. Drubner said it's believed this is the oldest standing house.

Mr. Pasca asked what that means.

Mr. Hulme said people walking down the beach see this house, they won't see that; his client will not have the benefit of this house in this location. And I don't see the detriment to the community as opposed to the benefit.

Mr. Badzik said the building inspector determined that this is located in the primary dune and he'd like to hear from the building inspector to that.

Mr. Hammond said we take the rear yard from the crest of the dunes so we don't really talk about the setbacks, the setbacks don't matter landward or seaward there's language to say that the toe of the dune is 25' from there, and you can't work 25' from there. I find it unfortunate to have the primary and secondary dune and it's been interpreted to get retreat from the dune with these applications and I didn't feel comfortable changing that where you may have four houses that have been retreated and now the neighbor gets to keep their house. Zoning is there for a purpose and Dune Road is tricky, and you usually don't build tin the dune because you have a property that allows you not to but here you have a challenge.

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Mr. Badzik said as the Code is written, what you are calling the landward dune is the primary dune.

Mr. Hammond said he thinks Mr. Hulme makes a good argument that the landward dune could be considered the secondary dune and the reconstruction is off of the table and they should be able to do that. I find merit in that argument when you describe the dunes and the problem being is that if I agree with that, it undoes your mechanism to get retreat.

Mr. Pasca said no, not necessarily because the 75' is still a criteria.

Mr. Hammond said the 50% is what he assumes to be the balance.

Mr. Pasca asked if there's a prior ZBA decision that's interpreted Mr. Hulmes's argument.

Mr. Piering said no.

Mr. Hulme said he has lost that argument several times.

Mr. Pasca asked if they ever asked the DEC for guidance on this?

Mr. Bowman said there are a lot of places in this Village where it occurs and there is still attempts to address the CEHA and it's a case by case basis.

Mr. Hammond said this should have landed in the CEHA. The secondary and primary dune should just go away, it should just be CEHA. There should be a setback from the landward most protective feature. The CEHA line is very arbitrary and its very outdated.

Mr. DelGiudice asked if it was drawn in 1991.

Mr. Hulme said the interpretation part, this is a unique set of facts; there are two well developed set of dunes and the code says the primary dune is the seaward dune.

Mr. Musnicki said we are talking about a variance for the restoration part, but the thicker part even if you get that the CEHL.

Mr. Hulme said if we're in the secondary dune area we still need the variance and then there wouldn't be the pressure to move the house. The work we're doing is permitted, its not a restoration if we just raise the house. We would still be in the CE Zone but the work is permitted in the CE Zone.

Mr. Pasca said under Chapter 74, not zoning.

Mr. Hulme said it is still a dune crest setback. Vacant land yes, tear down the house completely yes, existing house not always.

Mr. DelGiudice said I would hate to see you have to move it in to a conforming location. It is difficult.

Mr. Hulme said this requires some crafting.

Mr. Rosensweig said it is very difficult and there was a lot of preparation.

Mr. Hulme said there are enough unique facts of this house. There are not too many other similarly situated houses.

Mr. Pasca said he thinks its clear, they are not willing to move it 5' or 10' or anything to the North to minimize the variances.

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Mr. Drubner said if he moved it back then it's closer to the neighbor's houses, and his neighbor to the West likes the separation between the two houses and if we move it back, we are much closer to them.

Mr. Pasca said if you don't want to consider it, then you should close the hearing. If you want to go back and think about it you can leave the hearing open.

Mr. Hulme said we could leave it open; we may come back and say this is our application.

Mr. Pasca said this is your choice.

Mr. DelGiudice said I don't know what we're looking for, but I know Mr. Musnicki and I am mentioning it is a tough sell for this Board to keep the house where it is.

Mr. Piering said there is a lot happening here, and he is not comfortable closing the hearing.

MR. Wittschen said he needs more time too.

Mr. Hulme said okay.

Mr. Pasca wanted to just find out what they were willing to consider and not.

Mr. Hulme said okay.

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

Motion was made by Mr. Piering to adjourn the meeting at 6:30 p.m.; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.