

December 19, 2019

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, December 19, 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

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.

Motion was made by Mr. Piering to holdover the application of **Francis & Donna O’Conner, 16 Oneck Place (905-009-03-035)** to January 16, 2020; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.

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.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

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In the Matter of Application of

Jacqueline Peros

DETERMINATION

Shane Peros

Address: 222 Oneck Lane

SCTM #: 905-10-1-2

-----X

I. REQUEST FOR RELIEF

The applicants, Jacqueline Peros and Shane Peros, are the owners of a parcel of real property located at 222 Oneck Lane. The property is located wholly within the R-1 Zoning District. According to the survey prepared by A. Agujo, Surveying, Inc., dated November 11, 2018, the parcel is improved with one and one half to two story frame dwelling, a frame garage, wood decks, flagstone patio, outdoor shower and inground swimming pool.

Section 197-6.D. of the Village Code provides that, in the R-1 District, the front yard depth shall not be less than 50 feet; there shall be two side yards totaling not less than 70 feet, neither of which shall be less than 30 feet; and the rear yard shall not be less than 50 feet.

The applicant seeks a variance to construct a two-story addition with a second story roof deck over the existing garage. The applicant therefore requests a variance from Chapter 197-6.D. to construct a two-story addition with a side yard setback of 20.2 feet, and a total side yard of 50.5 feet.

II. SEQRA

The applicant submitted an Environmental Assessment Form (EAF) Part 1 in connection with the application. The Board classifies the application an Unlisted action under the State Environmental Quality Review Act (SEQRA). The Board has completed an EAF Part 2 and 3 and finds no potentially significant environmental impacts as a result of the application. The Board therefore adopts a Negative Declaration under SEQRA and authorizes the Chairman to sign the EAF Part 3 (determination of non-significance) as prepared.

III. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on February 21, 2019. The applicants' attorney James N. Hulme, Esq., appeared on behalf of 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 was closed for a determination at the December 19, 2019 meeting.

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.

IV. FINDINGS AND CONCLUSIONS

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

1. *Character of the Neighborhood:*
2. *Alternatives:* The applicant has demonstrated that there are no feasible alternatives to achieve the benefits sought without a variance.
3. *Substantiality:*
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 variances to allow the applicant to construct a two story addition with a second story roof deck and a one-story screened porch, as depicted on the survey of the property prepared by A. Agujo, Surveying, Inc., dated November 11, 2018 subject to the following conditions:

V. 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. The variances granted herein shall terminate unless a subdivision map has been filed within 180 days from the date hereof.
3. The variances are conditioned on the applicant completing the subdivision review process and ensuring, in the final plans, that the common driveway is of such width and design as to

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enable complete emergency and fire apparatus access. The details of the common driveway are to be determined in the discretion of the Planning Board, and, if necessary, to allow sufficient area for emergency access and screening, the common driveway may be located on any portion of lots 1, 2, 3 and 4 as the Planning Board deems appropriate.

4. There can be no exterior work performed on any of the property, including any of the proposed subdivision lots, on weekends from May 1 to September 30 and on weekdays from July 1 to September 10.

Dated: December 19, 2019

Village of Westhampton Beach
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination of **Shane & Jacqueline Person, 222 Oneck Lane (905-10-1-2)** 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 APD, and Chuck Bowman, Land Use Ecological Services. Mr. Hulme said they left off and they have reviewed moving the house forward toward Dune Road and based on the analysis they went through, they have decided not to pursue that and at the end of today they would probably seek a determination based on it is today. I wanted to spend a few minutes discussing that. Before we do that, there were changes made to the façade of the property that we believe make it and take it closer to the existing façade to preserve the value of it.

Josh Rosensweig said part of the adjustment was to not just show the Historic nature, it was more at the appeal to preserve more sentiment of the stone archway at the portico and bring some of the esthetic back to it. The trim color after the last presentation and they want to preserve the trim color and its Historical relevance.

Mr. DelGiudice said this is not a landmark, and we are not the ARB.

Mr. Rosensweig said we just want the Board to know that the change was made.

Mr. Badzik asked if they are moving the entrance?

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Mr. Rosenswieg said to establish the record we await to make sure the record is clean.

Mr. DelGiudice asked if the square footage remains the same?

Mr. Hulme said yes. The other thing he wanted to put in the record was comments that they solicited from people in the area, and submit the same for the record. Their client intended to be here, and he was stuck in traffic after leaving NYC at 2:00 p.m., but he wanted to assure the Board his absence was not due to lack of interest. As we discussed, there are a number of factors that make this lot unique as a whole and on Dune Road specifically. This is in fact the oldest house on Dune Road, and our belief is that it should be handled carefully and respectfully, and before this house was bought he did research in the submission and he bought it because of its history and location and he bought it and assured the prior owner that it was not his goal to tear the house down and subdivide the property in to three (3) lots but he wanted to maintain the nature of the house and modernize it as well and protect it from the environment. This is one of the few triple wide lots in the Village, and very few that are situated the same as this. It is also one of the few lots on Dune Road with a basement, and we are giving that up but it's a contrast to any other application that may be brought on Dune Road and last as we discussed in detail there are two (2) full height dunes and its very well protected from the environment and that's not unique to this lot necessarily but it is to the vicinity of this property. Our plan relative to this is from the perspective of FEMA is to install helical piles under it and set it back down and we are seeing the variances to that and if we add to that moving it at all or forward that adds to the cost, not a lot but 25% to 50% more to the cost. Because of the size and age of this house there are certain additional risks associated with lifting it and moving it forward that don't exist when you just lift it. For those several reasons we think this is very unique and we have a good basis for picking it up and leaving it where it is. It avoids additional cost and risk. The removal of the wall, patio and basement on the ocean side is a significant change and will cause and allow the dune to grow and to be less interfered with than it is now and the deck were proposing is above the dune. The main benefit to the dune, we believe, comes from the lighting of it and the bulk of the benefit comes from the lifting of the house and removal of the basement, patio and wall and we think the smaller additional benefit is offset by the risk in trying to move the big house forward any distance at all. It is clear the house is already where it is and in a disturbed area and we're asking to keep it and not closer.

Mr. Piering said you can't get much closer.

Mr. Hulme said we are only asking to lift it. The improvement to the health of the dune, because we're elevating to FEMA there is flood damage and erosion benefit. Finally, one of things we submitted is a dune restoration plan designed by Mr. Bowman which provides for substantial cubic yards installed. It is 300 cubic yards.

Chuck Bowman, LandUse Ecological Services. He said most importantly it is a secondary dune based on its vegetation and condition of the primary dune, but I think the most important aspect of this is to look and see how that secondary dune will function when you raise the house. Mr. Hulme indicated there's a masonry wall there and it might as well be a bulk head; there are a lot of property's with sea walls and they are behind the primary dune in a lot of Villages and that's not a good way to protect the dune feature. The most important part here is that we are getting rid of that, when that whole area gets removed to augment that dune I think we calculated 300 cubic yards of dune compatible sand and you make it compatible, now the house is elevated and you are allowing that dune to function as it should. The water from the ocean runs unimpeded.

Mr. Wittschen asked if the wall created the dune?

Mr. Bowman said he does not think so, he is sure it did trap some sand, and the secondary dune are a lot of windblown deposits. Whether there is a house there or snow fencing or another structure that lets the sand settle and build up. But in a storm event, those types of walls create a reflection area and disperse the sand. That can cause some real damage. There is a huge beach here with a huge dune system and don't anticipate that to happen. It's a real significant concern that the walls can create problems. I think the function of the dune how will that be augmented and made to address the FEMA regulations and how that future storm event may interact with that house. Lifting it you are getting rid of the foundation and basement area and it will conform to a FEMA guideline to allow the water to pass underneath. It has to all be elevated and that's one

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thing, where houses on the South Shore of Long Island were built to the FEMA construction standards, those houses survive and it's the ones that were not built correctly, or to those standards that have real problems. My recommendation would be to lift it, minimal disturbance to the dune, do the plantings and this is at the Northern edge of the secondary dune right now, so moving it back you'll still have the secondary dune in the same location functioning as it would be.

Mr. Piering said okay.

Mr. Rosensweig said the wall has about 250' linear feet, and a vast majority of the property will be mitigating it.

Mr. Hulme said the last bit of comment we wanted to provide moving the house toward Dune Road is moving towards danger as opposed to away from it, and we have plotted the various flooding based on various tidal events. And as you can see even in Hurricane sandy it never got over the top of what were calling the seaward dune, but the flooding from the road and Bay came significantly closer to the house and risk from the ocean. In a certain way moving it toward Dune Road is closer to the danger as opposed to away from it. The other issue raised was the variance that we've requested for the habitable space, and the way we're looking at it is a basement with 1,3000 square feet and it contains almost of the storage for the house, and it looks like that and we're adding approximately 700 square feet to the upstairs structure but within that we have to replicate the utilities and the storage and we view that as reasonable.

Mr. Piering said that is a big increase over what is allowed.

Mr. Hulme said yes, and no but if we did nothing but create habitable space in the basement we could go ahead and do that with egress. We're giving up a lot to satisfy the flood and erosion damage.

Mr. Rosensweig said part of the record could be found in the triple wide lot and the lot coverage far exceeds the minimum in the R3 Zone. The overall lot coverage, and I think it would be hard to find other properties with this much square footage to ask for a variance beyond 6,000 sq. ft. and there's no habitable living space but it is CO'd as of right space and if we were asking for an increase to be necessary for a house, nut looking at the specifics we have space while not habitable it is normally counted in Gross Floor Area, but it would be square footage counted on a first floor.

Mr. DelGiudice asked how many square footage is mechanical square footage.

Mr. Rosensweig said it is about 300 square feet.

Mr. DelGiudice said you are asking for a total of 900 square feet. You only need 300 square feet for mechanical. We are here today because you are seeking variances, and our goal is to minimize it and this is the same presentation except for a new rendering.

Mr. Hulme said we tried to fine tune the benefits to just the list and the diminishing benefit if you lift the house and move it.

Mr. Rosensweig said a lot of the presentation were the fill cubic yards, and we analyzed that in how the dune would be impacted.

Mr. Piering said the question was about the increase of the square footage of the house.

Mr. Rosensweig said the moving of the mechanicals is a domino effect because we have to move walls, and it's just how we put them adjacent to other spaces on the first floor. If we include the original GFA grandfathered, we are reducing it by 500 square feet.

Mr. DelGiudice said you're benefit will be better if it's lifted, but you're increasing the size of it. It negates it, you're asking for two variances.

Mr. Hulme said we're increasing the size by a percentage of what's permitted.

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Mr. DelGiudice said it's over the 6,000 square feet. Is there anything over that in the Village?

Mr. Hulme said yes.

Mr. DelGiudice said he'd like to see that. People have asked for it.

Mr. Hulme said you look for a significant give back and you may conclude giving up the basement is not significant enough but the places have features not just the large sized lot, ut a cottage and house.

Mr. DelGiudice said this is right now, 300 square feet for mechanicals but we have other space sprinkled for other things, this is a big house, 6,000 square feet but if you said to me it's 300 square feet and the house is going to be 6,300 square feet that's more palatable.

Mr. Rosenswieg said to make sur eth proportions have to be maintained.

Mr. DelGiudice said I love the architectural experience, but when attorneys seek precedent that's our concern. I have been on this Board for a long time, but unfortunately it doesn't work and the architectural experiences not a factor. The second half of living on Dune Road is a barrier beach and you have to protect the Village.

Mr. Hulme said yes, setting aside the habitable space our presentation is to suggest we're doing significant things on the property and protect the Village.

Mr. Pasca asked what the point of the 75' setback is. If we have to lift it and put it on stilts what is the point of the 75' setback and that's a very big deal for this Board, and they get applications often and they always tell people it has to be pushed out of the Dune and everyone can say they're making it FEMA compliant.

Mr. Hulme said they can't tell you they're giving up a basement

Mr. Pasca said most can't say they have 260' to work with.

Mr. Hulme said those are about building a brand new house, and it has been here for 110 years. I don't think any other house on Dune Road have these unique circumstances.

Mr. Musnicki said I am concerned with the statement about the diminishing return by moving it in to the X Zone; if you can convince me on that diminishing return I want to hear that.

Mr. Hulme said there is benefit across the scale. If we build it 20' from the road, there's benefit to the dune but the major benefit to that dune comes from lifting the house and clearing out the understory.

Mr. Musnicki said you're not speaking to it; my question to you is and you brought it up and handed the board information; What is the diminishing return in to the X Zone?

Mr. Hulme said its closer to the flooding.

Mr. Musnicki said I do not agree with that. The X Zone is closer to the AE area.

Mr. Hulme said it makes no sense why there is an X Zone.

Mr. Musnicki said the arguments I hear, the neighbors don't want it close to them. It's a significant and historical position. You gave us three people who live in the Village that would be sorry to see it moved from its location today. You know this Board and we are sympathetic and look at every application very hard, and we all live here this is an important application as I said last month. This is significant, and it will have implications in the future.

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Mr. Hulme said there are not too many properties in this Village that are situated the manner this one is.

Mr. Musnicki said that's not going to make your case.

Mr. Bowman said I think it's important for the Board to note the secondary dune and the X Zone. All over Long Island FEMA remapped the VE and the X Zone and the AE Zone; some places it makes no sense, and some places its undetermined so whatever zone you're closest too is what you raise it to. In this case it's the VE Zone. You have t put that aside and what is the function of the dune, how does the dune and this house right now is defining the Northern Edge of the Secondary Dune but it's also an impediment to that dune. It traps the sand and doesn't allow the water to flow, you lift it to FEMA regulations and you make it better. I looked up the flooding problem after Hurricane Sandy and there's data on Dune Road and there were elevations taken along fences, walls, and all of the flooding came from the bay so it's not the dune in this part it's the Bay creating the flooding so I think that's something the Village can't do anything about.

Mr. Musnicki said we can't take your map and do this, we need to take a State Regulated or Government map, that's what we look at. If you can provide something better to speak to that.

Mr. Hulme said those are FEMA maps and we are complying with FEMA.

Mr. Bowman said the X Zone is undetermined, and that means you can do whatever you want but that doesn't make sense on a barrier island.

Mr. Musnicki asked where you prefer to be?

Mr. Bowman said in an X Zone, I would build to the VE Zone on the ocean. It's the elevation and as I said before, the construction standards tell whether that dune does what it is, and is a barrier to the ocean for the rest of the community as you said.

Mr. Musnicki said we grant applications all of the time in the X Zone to the AE Standards.

Mr. Bowman said the most restrictive area in close proximity to the X Zone is what the Board should look at. If you're close to t a VE zone build it to those standards.

Mr. Pasca said the board is not saying you should not lift it, but the map you submitted has three very important lines. A CE Line and the house is 100% seaward of that; the visions between the VE & X and the house is 100% and there are official lines imposed by the DEC and the Feds and by the Village and you're saying we don't want to move it closer because there's more flooding.

Mr. Bowman said there are provisions in Coastal Erosion Hazard Area and your Code and I want to make a distinction between the two.

Mr. Pasca said the Board is looking for a rationale that you're not moving it closer to those lines.

Mr. Bowman said most of the houses are tear downs, and I get that but you have to look at how the dune will function and the secondary dune will function. If this was a primary dune I would not be here because that can eb gone in a heartbeat.

Mr. Hulme said this Code says the most seaward dune is the primary dune.

Mr. Bowman said it is a primary dune, the ecology and geology of it, is that it is.

Mr. Piering said that we have 75' from the Northern most dune.

Mr. Hulme said you can build in the X Zone & not deal with FEMA or we can lfit the house and comply with FEMA.

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Mr. Piering said to make a suggestion, when you began your presentation you talked about the increased cost and the damage to the house and that's potential moving it forward. Do you have report or expert opinion to give to us.

Mr. Hulme said we can provide that.

Mr. Rosensweig said they met with Guy Davis and they received pricing lifting in like in kind.

Mr. Piering said when you get through everything else, this is very unique and we understand that, but some of your arguments we agree with but we need something concrete about the cost to move the house forward and the damage to it too. That might help that aspect of it.

Mr. Wittschen said that would help me a lot.

Mr. Piering said the other thing we have to address is the increase in the square footage. The height variance makes sense to raise it to FEMA compliance, we won't chop off of the roof. But we need to have more concrete facts to support the criteria.

Mr. Hulme said okay. If he can, FEMA is solved by lifting the house. CE may not be an issue and then we're left with the area variance which is the balance of harm and benefit. What we're trying to get is where the benefit is to the community and how far do we have to go in that to remain in the spot we are.

Mr. Musnicki said you are proposing zero.

Mr. Rosenswieg said we're moving the structure in the Coastal Erosion Hazard Area and creating more conformity. That's not just a benefit to the Coastal Erosion Hazard Area but to the neighbors on the East with a lot line in the side yard setback. The garage is part of the application in terms of the benefit and relief requests, it's a large area of retreat.

Mr. Pasca said a small portion of the garage is in the Coastal Erosion Hazard Area and every square foot that you're adding is in the Coastal Erosion Hazard Area.

Mr. Rosenswieg said it's a zoning retreat to the Easterly setback.

Mr. Pasca said you said it's a very large building in the Coastal Erosion Hazard Area, and its' very small.

Mr. Rosensweig said it's a two-car garage, I don't think we need to buy the other variances and we've made good arguments without that it's another factor to bring this in to conformity. Its another piece to the puzzle.

Mr. Bowman said the Chairman's point is well taken to show the structural impact.

Mr. Piering said that's the only argument you have truthfully. We like it and want to keep it doesn't apply with the ZBA.

Mr. Hulme said it's more than people like it, to me personally it has been a landmark since I've lived here.

Mr. DelGiudice said I love it where it is, but then you come in and say it's larger.

Mr. Bowman said some houses you can move easily, but some will crack.

Mr. Hulme said maybe they can bring Guy Davis to speak to that.

Mr. Bowman said sometimes they go easily, but sometimes they have to tear them down. Mr. Piering said give us something concrete as to why you can't move it. Then we need to address the size too I think.

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Mr. Hulme said okay.

Mr. Rosensweig said it's not unrealistic to have Guy Davis to speak to this. To have him testify to the risk and I think that's doable and will yield positive results, and then bring up an issue that we can further discuss now for more clarity so we're prepared not to extend to more hearings.

Mr. Piering said I can't make any promises.

Mr. Pasca said you can ask to close the hearing, it's your choice.

Mr. Piering said you want an approval, we understand.

Mr. Rosensweig we want you to see the positives in this application.

Mr. Hulme said our position has been we want to lift it, and if you're looking for 30' we would be closing the hearing.

Mr. Piering said I gave my feedback, and I think that's a good starting point. I can't speak to the other Members of the Board.

Mr. Rosensweig said they'll speak with Guy Davis and maybe they can look at the balancing act of the house.

Mr. Musnicki said he had nothing else to add tonight.

Motion was made by Mr. Piering to holdover the application of **Crampton Society, LLC., 119 Dune Road (905-21-3-8)**; seconded by Mr. Musnicki 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.

5. 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. The house was constructed and reconstructed a few times and there were additions on it and the house that exists today had a covered porch which he does not know when it was built and it will be a porch or a patio and we are looking to enclose it and expand do the North and South not the East property line. If you look at the roof line we are looking to match the main gable roof on the house. We are asking to make it wider not closer. We have an existing covered porch and we are looking to enclose it. The existing living area is just that and we're seeking a dining area. The Kenny's are to the South of this property and his brother is to the East and they all share the swimming pool. The swimming pool is confirming on the brother's property and the fence will be moved to the property line. We don't have anyone to the North and that's the golf course, and the neighbor to the West has no issues to his knowledge.

Mr. Musnicki said at some time this was a confirming side yard?

Mr. Vero said he is not sure. He gave a copy of the variance that may have been received and its not clear and the lot was undersized so I'm assuming they were conforming at that time. I can't prove based on the CO's when it was built. The materials all match so I'm assuming it was built at the same time, but the surveys show no records to the date when it was built. Kevin Kenny knows it has been there for 15 years and it was in a Family Trust, and the swimming pool is shared.

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Mr. Musnicki asked if the mechanicals will be in the side yard?

Mr. Vero said no. They are asking the covered square footage by 100'. It's not going to the East but a little North to South to match the main ridge roof line. The main gable is wider than the gable on the porch and we're matching the ridge and enclosing it. When they pull shades down on the screen porch from the Eastern sun it's enclosed it's just not heated and conditioned.

Mr. Badzik asked if they are increasing the side yard non conformity?

Mr. Vero said no.

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

Motion was made by Mr. Piering to close the public hearing at **6:00 p.m.**; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.