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Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, February 20, 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

Motion was made by Mr. Piering to adopt the minutes of the December 19, 2019 meeting; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

Motion was made by Mr. Piering to adopt the minutes of the January 16, 2020 meeting; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

DECISIONS:

1. 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.

No one appeared on behalf of the application.

Motion was made by Mr. Piering to adopt the determination of **Joaquim Martins, 39 Harbor Road (905-17-3-29)** as written; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

2. 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.

No one appeared on behalf of the application.

Motion was made by Mr. Piering to adopt the determination of **Sandpiper at Westhampton Beach LLC (Jeffrey Zuckerman & Shari Israel, Joseph Sanchez), 473 Dune Rd (905-16-2-26)** as written; seconded by Mr. Wittschen and unanimously carried 4 ayes, 0 nays, 1 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

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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.

Mr. Piering said he has read this in to the record many times.

Joshua Rosensweig, and Bill Barba Austin Patterson Distton Architects appeared on behalf of the application, and James N. Hulme, Esq., appeared via Skype, and Chuck Bowman, Land Use Ecological Services.

Mr. Hulme said they have a proposed plan that moves the entire building back by 10' and they have accomplished that they have moved the house in its entirety and we think this is the balancing of things, that this balances the needs and desires of his client and what they hope to retain, but also provides a great benefit by moving the structure out of the dune itself and obviously undertaking whatever dune restoration might be necessary as a result of that move. As far as the environmental benefit goes, I ask Chuck Bowman to talk for a few minutes to explain the benefit.

Mr. Bowman said it is quite clearly a secondary dune and when he looked at it, the toe of the secondary dune right now has been the retaining wall at the seaward side of the house. If you go there, clearly the dune comes up to a wall and it goes along the length of the property and the width of the property. That retaining wall stops the dune from migrating Northward and it is artificial and dug out and we were suggesting is to move it back in and get rid of the walls, which are the toe of the dune now and move back 10' we are able to then bring in dune compatible sand, raise the elevation of the dune and extend it back in a natural grade that goes under the house that is not going to create that artificial toe of the dune. In any of this situation this is a natural protective feature. The goal is going to be to make it higher, thicker, wider so you get the benefits of the natural protective feature if there ever was a significant storm. That 300 yards will give them a good elevation increase that removes the structures by then raising the house; all of the walls will be gone, and if there ever is a flood event certainly the house, because of the FEMA regulations will be able to stay in place and have the water, if it ever gets that far, to go through on to the other side. I think it's a reasonable plan and we have to look at it, if the Board is favorable to it and see what plantings need to be done, and I suggest we show proposed contours to show the board how high it will be. Right now it is 2' to 3' increase depending on where the wall is because there are a number that are different sizes and shapes.

Mr. Piering said what you're saying is, if we like this we have to go forward with another plan?

Mr. Bowman said no, I look at this as a building plan and its up to the Board but we have 300 cubic yards of sand and we show an increase of elevation, but if your building permit si going to be issued contingent on the dune restoration, I think the contours should be defined as exactly how high and wide and where the new sand will be going which is easy to develop.

Mr. Hulme said if you're willing to close the hearing based on this additional information, we have a minimum would provide a survey showing you exactly where the house will line up with the crest of the dune. But it would be no closer to the crest of the dune than the 10' of the teo we're talking about today, and I think Mr. Bowman was trying to emphasize that frees the dune and brings freedom to it and there's a lot of benefit to that.

Mr. Musnicki asked if all of the structures will be 10' from the Crest of the Dune?

Mr. Hulme said I think we're further than 10' from the Crest of the Dune; what we're doing is moving all of the structures 10' from the Toe of the Dune.

Mr. Wittschen asked if that includes the deck?

Mr. Hulme said he does not know exactly what the setback is.

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Mr. Rosensweig said yes to Mr. Wittschen.

Mr. Hulme said it will be 10' more than it is now. We would not be in the dune at all, there would not be any structures in the dune at all.

Mr. Musnicki said we use the Crest of the Dune as the rear lot line so it would be helpful to know what that dimension is.

Mr. Hulme said okay. He asked Mr. Rosensweig if there is a survey that reflects the setback now.

Mr. Musnicki said if he's not mistaken the original proposal for the house and the deck was actually over the crest of the dune so I am confused about the retreat of 10', you're saying it's more than 10'.

Mr. Hulme said as measured from the crest of the dune it is probably is more than 10', but what we're showing is the location of the toe of the dune, and we're moving it back 10' from where it is now which puts it behind the toe of the dune, it is a positive number.

Mr. Musnicki said he agrees that it is positive. But what is the number?

Mr. Bowman said the walls on the South side are actually Southerly.

Mr. Piering said when you look at the survey you can see the crest of the dune and it cuts right through the deck.

Mr. Bowman said right.

Mr. Piering said you're moving it forward 10' and that won't make all of the structures 10' from the crest of the dune.

Mr. Bowman said the walls now which are artificially stopping the dune are actually seaward of the crest of the dune so what we're going to be doing is taking those walls out, bringing fill in, creating a higher crest of the dune as we move the house back.

Mr. Musnicki said that's a question for the Building Inspector, if you're going to be creating something that's not there now, we can't make a determination on what you're going to be doing.

Mr. Bowman said we're augmenting the dune is what we're doing. The dunes change all of the time. When you do dune restoration are you creating a new crest of the dune, I guess your answer is yes you are.

Mr. Rosensweig said the significant part of the application is the retreat of all decks, all structures, and the retreat of everything is 10' to the North.

Mr. Piering asked the significance of the 10'. Why did you pick 10'.

Mr. Hulme said it takes all of the structures out of the dune, it takes them 1' or 2' plus or minus outside of the toe of the dune.

Mr. Bowman said he was trying to get rid of the artificial cove in the wall. Head North up the dune there is a wall across the entire width of the property that is the manufactured artificial toe of the dune, there's nothing on the North side of it so we're trying to get rid of that, create a real crest of dune, and slope it down to the natural grade.

Mr. Badzik asked if that's the line along the top that slopes in?

Mr. Barba said we're letting the toe of the dune expand North naturally and our structures including the Southern most portion of the deck will rise up.

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Mr. Piering said if you lift this house, you're going to be partially a percentage will be out of the coastal erosion area? I'm confused. I'm looking at the coastal erosion line on the initial survey.

Mr. Hulme said some of the new construction goes across the coastal erosion line. Whatever the 10' is one of the additions is 12', we're not moving completely out of it but a portion of it is.

Mr. Piering said okay.

Mr. Musnicki said all of the structures are going to be 10' from the crest of the dune? Is that true?

Mr. Bowman said they are going to be 10' from the existing structures, but they will be constructed in the new crest of the dune by augmenting the dune that's there which will then have a new setback.

Mr. Musnicki said at the minimum you're proposing all structures to be 10' from what?

Mr. Rosensweig said they'll be 10' from where they currently are, there's no one definitive line that the dune has that are varying.

Mr. Musnicki said I still need the answer to this question; not from where they are or anything else. Are all of the structures going to be 10' from the Crest of the Dune?

Mr. Bowman said yes, but we're exceeding that because the walls are coming out too.

Mr. Musnicki said all of the structures are at least 10'?

Mr. Bowman said the house is moving back 10'.

Mr. Musnicki asked if it's all of the structures, the deck included?

Mr. Bowman said yes.

Mr. Musnicki said okay.

Mr. Rosensweig said the decks are going to be in the same footprint as the existing patio so as we move back, right now the patio may be 5' South of that, it may be 5' North.

Mr. Musnicki said again, all structures, including the deck.

Mr. Bowman said you keep indicating that the crest of the dune and I'm trying to point out that the walls are the real toe of the dune on this property are being removed and I believe that the house itself is moving back 10' and everything is moving back 10' so that the walls which are now South of the Dune are moving back 10', so that is not a whole 10' from the crest of the dune line. The improvements are going to be moving back 10'.

Mr. Musnicki said he does not think that. We work with the crest of the dune, not where things currently are.

Mr. Bowman said that's where we are missing each other; the crest of the dune now all of the structures, the walls are South by 5', 3', 4' so all of that will go away; and they are moving back 10' so in some places part will be 10' from the crest of the dune as determined by the building inspector, and some places it may be 8' and some places it may be 6' because the walls are not a straight line.

Mr. Piering said so that's a no to Mr. Musnicki's question.

Mr. Barbra said the line is an arbitrary line; and in this property our Crest of Dune if you went from the Dune heights comes down in to a valley and goes back up across the property, so all we are doing is filling in here and coming more in a line with the legal Crest of the Dune now.

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Mr. Rosensweig said wherever the Building Inspector deems the Crest of the Dune on this lot will be 10' South of all of the proposed structures. We are proposing a retreat of 10'.

Mr. Musnicki said that's clear.

Mr. Rosensweig said that's what we're proposing. Wherever the Crest of the Dune is deemed by the Building Inspector we are going to be 10' from all structures existing and proposed further to the North than anything that exists currently.

Mr. Piering asked Mr. Hammond if he had something he wanted to add.

Mr. Hammond said because the Crest of the Dune defines the rear yard we definitely need, what was submitted between meetings was now we're going to move it, so we're going to need a proposed plan with the house moved to wherever it is and wherever the decks are and showing where the current dune is and where the proposed dune will be and we need the setbacks for the proposed. Let's remove the building structures for a second and say the house is 100' from the Dune and they wanted to replenish the dune they could do that with a permit and replenish the dune and that would change the rear yard so I get the point we will need to know the numbers for the proposed, but for clarity for the variances what it was today, what it was after, and that number will change because the dune is getting bigger and taller and wider.

Mr. Bowman said that's the point he was trying to make.

Mr. Rosensweig said it represents a 10' retreat from what they were proposing and that's what they want the Board to take in to consideration along with the other aspects of the project.

Mr. Hammond asked if the Dune is getting wider to the South? To the North?

Mr. Bowman said it is a little to the South. The goal is to make it higher and wider.

Mr. Hulme asked if they want that reflected on the survey?

Mr. Piering said yes.

Mr. Hulme said the question becomes can we close the hearing and provide that survey in the interim, or do you want to see that first?

Mr. Musnicki said he has one more question. You pick 10' as far as the lifting vertically and moving laterally and the problems associated with both, we have gotten past the lateral move and its safe to move laterally.

Mr. Hulme said in balancing things, it difficult to define the risk that's associated with the lateral movement, but I think we can all accept and I think this is what the Engineer and Guy Davis also indicated, the more you move it the greater the risk. So this whole process being a balancing test is balancing the increased risk in moving 10' versus a greater number, we're balancing the loss of the current location, we're balancing the improved benefit to the dune, all of those things have been discussed and we arrived at the number of 10' because as indicated that will put us landward in the toe of the re-established dune.

Mr. Rosensweig we realize there's going to be a risk in moving it laterally as opposed to just lifting it up, but understanding that this Board wants us to look at all possibilities under the decision.

Mr. Piering said since he has been on the Board, we've always wanted to pull things up. Whenever things come to this Board to be rebuilt, reconstructed, we always want to pull them out of the dune and that's been consistent of this Board.

Mr. Rosensweig said he understands.

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Mr. Piering said there is a lot to balance, when we go through this and look at our five factors, the first one is undesirable change to the neighborhood; is this going to be an undesirable change to the neighborhood if you get this variance?

Mr. Hulme said no.

Mr. Piering said I would agree with him on that. Can this be achieved by another method? Okay, now obviously it can be but you presented the risks.

Mr. Hulme said I don't think there will be perceived any change in the neighborhood except maybe a positive one as it effects this landward dune. As far as the second factor, it has to factor in what the client purchased and what their goals are as well, and we have said that before.

Mr. Piering said I think we go back in to the benefit of the applicant.

Mr. Hulme said anything we are all pretty imaginative and we can do all of kinds of things, including tearing the house down completely and rebuilding a house 50' from the road but that doesn't preserve what the client purchased and the historic home and approximately in its historic location. I think all of those things mitigate and have to be considered when deciding the other feasible alternatives.

Mr. Bowman said that's very important and the Board looks at testimony and I have never come across a house like this on the South shore that has this history and construction. And the ones that did exist that I can think of in Southampton Village were either knocked down completely or destroyed by past storms. It just doesn't exist anymore.

Mr. Hulme said the houses that have been knocked down we have retreated to a much greater extent.

Mr. Piering said if this house was knocked down, this would be a much easier application. I think you agree the variance is substantial and there's no way if you pull it out of the dune and rebuilding the dune how will that affect the environment, is it adverse?

Mr. Bowman said that the natural protective feature is going to be increased from what is there now, it's going to get higher and wider and there will be more flood protection so I think that's a positive.

Mr. Rosensweig said it will allow for a strong storm surge to potentially be deflected and have devastating effects as it is now, and everything we are doing as part of this application lifts it and puts it on conforming pilings, drops it and allows for storm surge and wave action to come underneath it and minimizing the risks. Which is the heart of the FEMA regulations. As the property sits today there's an actual foundation wall slicing the dune and allowing no storm surge to pass under the home.

Mr. Badzik asked how high they are raising it?

Mr. Rosensweig said 3'; the house is being raised 3' and we are not going any higher than we need to and it's as low as we can be.

Mr. Piering asked if they need a variance for the height?

Mr. Rosensweig said that was part of this submission. We have an existing height ridge we are not changing at all.

Mr. Badzik asked what the new fill is?

Mr. Bowman said it is going to be granular tube material, compatible sand. We will see what is in the dune and a grain size analysis and we will get that kind of sand, and it comes from East

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Coast Mines or something like that. We have to be very careful and only select virgin granual material.

Mr. Badzik asked if that's going under the house and to the sides of it?

Mr. Rosensweig said yes.

Mr. Piering asked if there was anything else.

Mr. Musnicki said he doesn't want to belabor the crest of the dune, but I want to be clear if we are closing this tonight that the way I understand this is that teh Crest of the Dune is going to be changed and moved North artificially, and from that point as identified by our Building Inspector the new structures, any new structures will be at least 10' from that.

Mr. Rosensweig said if we were to leave the dune currently in its position our building, after moving it 10' would represent distance "A". But because we're going to rehab the Dune and bring more fill in which is something everyone here wants to see after that the Building Inspector one day will define the new Crest of the Dune, which may decrease the setback for the proposed house relative to where it is today is a better position to the overall dune so it will not be 10' from the Crest of the Dune, because right now the existing wall is beyond the crest of the dune to the SDouth, but it will be 10' closer to Dune Road than any structure is currently. The actual toe of the dune, sorry the crest of the dune is going to change after the dune replenishment is done our building inspector will note the new crest of the dune on a survey; after the replenishment. We want to make the dune better because it's been sliced and chopped and cut off and truncated.

Mr. Piering asked how they will get this Board a survey?

Mr. Rosenswieg said the existing survey of the dune is here, and the proposed structure survey which has to accompany the building permit will show the new contours of the new proposed dune after its reconstructed.

Mr. Bowman said we have to submit, or we will submit the proposed contours.

Mr. Piering said this 10' movement, to get back to Mr. Musnicki's original question when all is said and done and we have the new crest of the dune, you will have no structure that's going to be closer than 10'.

Mr. Rosensweig said the structure will be closer to the new dune because we are making a more robust dune, absolutely. Right now the retaining wall of the existing building is slicing through some of the crest of the dune in some areas. We are going to take all of that and pushing more sand on the dune. If the Board needs to define the dimension from the existing crest of the dune and for the purposes of this variance, right in the distance of the new structures you can do that from the crest of the dune at the time of this application; the new dune will be looked upon by the building department and that new crest of the dune setback will be generated after the final contours are done by the surveyor. The surveyor will go out after the fill is in and they will do an as built survey like they would for a home, and they will look at the elevations and they will have to plot the elevations on the survey. You'll never really know where the new crest of the dune is until after the mitigation work is done and Fox Land Surveying goes out there and surveys all of the new dune.

Mr. Bowman said what they will submit to the Board is proposed contours just like in any application you see; and then as Mr. Rosensweig said when the work is done, you're going to have an as built to make sure that we've met the elevations.

Mr. Hulme said the Board needs to see the initial work as proposed.

Mr. Rosensweig said we're taking existing building and all improvements and proposing to relocate it 10' to the North to retreat from the Dune.

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Mr. Musnicki said this new proposed Crest of Dune, was this idea developed for this new application or was this an idea before?

Mr. Rosensweig said no this was a common concept to any dune replenishment even if you are reshaping a dune because its environmentally right and what's noted from that, the plantings and contours and anything that's going to help the dune sustain a long period of time.

Mr. Bowman said if we were knocking the house down and building it closer to Dune Road we would still have to give a dune restoration plan because the house and the foundation would leave a big hole there.

Mr. Piering said to be real clear, there is something on the survey that says Top of the Dune that's the Crest of the Dune, so when we get the final as built survey, if this variance was to go forward we would want to see at minimum of 10' from any structure from that line, okay?

Mr. Hulme said I think that's clear.

Mr. Piering said we also have last month, we discussed reducing the size, and that's all a matter of the record, and will be the same?

Mr. Rosensweig said yes, absolutely, and will remain the same.

Mr. Badzik confirmed that the new survey will show that.

Mr. Rosensweig said yes. And all of the plans will be the same too.

Mr. Piering said we will need to get that survey as soon as possible to render a determination, that's the last hang up; we can close it for a determination pending the receipt of the survey.

Mr. Hulme said as soon as they receive the survey from the surveyor they will submit it to the Building Department.

Mr. Piering said they will need it at least two (2) weeks before the next meeting; the next meeting is March 19, 2020.

Mr. Rosensweig said okay.

Motion was made by Mr. Piering to close the application of **Crampton Society LLC, 119 Dune Road (905-021-03-008)** for a determination; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

NEW APPLICATIONS

4. Deborah Fein, 13 Beach Lane (905-011-03-011) Applicant requests variances from §197-6 D to construct a dwelling with side yard setbacks of 11.5 & 14 feet where the minimum required is 30 feet, and with a resultant combined side yard of 25.5 feet where the minimum required is 70 feet.

Nicholas A. Vero, Architect appeared on behalf of the application. They have a property that is 66' wide, and on that property at one time existed a house that was 41.5' wide and as the lot existed prior to the house coming down there is a survey along with the proposal that shows an addition prior to the demolition of the house; and today they are proposing to reconstruct the house that was there which was three stories and was very dilapidated, and he came to this Board to work on the cottage in the back of the house in 2016 and the applicant today purchased the house from that owner and they are looking to reconstruct the house, there is no way to save the house it is very dilapidated; the foundation is horrible and it did not pay to elevate the house and put a new foundation in. You have to elevate the house to meet the new flood zone requirements, and we are putting in a new septic system and we are adding one bedroom to make it a five-bedroom house. For the record, the house was three stories, and there was a non-conforming bedroom on the fourth floor with no means of egress, and the more I kept trying to reconstruct the house it did

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not work. My proposal is to reconstruct the house with the same sideyards and go a little further back off of Beach Lane than existed and when you look at the aerials you will see the house directly to the South of this house, which has a 10' side yard set back between this house and theirs and they came to this Board for a variance for fill in the side yard and I think for the pool and reconstruct an additional they needed a single side yard variance. We know that the owner of the Grassmere Inn, Peter Kaplan interestingly enough he is a friend of mine, and I discussed this with him a lot of times and he complained during the cottage construction as well, and it was inside construction and the windows were open and it was loud and we tried to work on that. He is concerned about noise being generated which I will address in a second. When I first looked at this house in 2015 Peter Kaplan had rented it and was using it for his employees and there was a lot of things going on in the house that should not have been. If we get any variance, I would recommend that perhaps, rather than extend your noise control no work on the outside July, you should move it to May 1 and that would be okay with my client. The lot is 66' wide and I have a -4' building envelope on the house. We are making the property better, we are giving a new house and not any bigger than what it was square footage wise, the house existed was three stories 4,200 square feet, and I believe we are 4,100 square feet and it is two stories. We are installing a new septic system, and we will push the house further to the West off of Beach Lane.

Mr. Musnicki asked if he saw that this was an X Zone, or is it the AE 7 Zone?

Mr. Vero said the surveyor messed up, and we looked at the FEMA Maps, they are in an A Zone, and the South West corner keeps them in the A Zone; the cottage was not but the house would be at that corner. We are elevating the house anyway because of ground water and the septic system, so we would have to change the drawings significantly. They still meet the height limitations, 36' for the plate height for a pitched roof, and that's not really a change, the house virtually looks the same there's no change to it except there is a porch on the South East corner of the house and that will become living space.

Mr. Musnicki said you are looking for a lot coverage variance?

Mr. Vero said no they are not.

Mr. Musnicki said okay.

Mr. Vero said the surveyor included the lot coverage of the concrete slab, and it's not and has been removed so there's no lot coverage variance.

Mr. Musnicki asked what the lot coverage is?

Mr. Vero said he thinks it is 16.76%, and that gives them room for a pool. There is no issue with the lot coverage.

Mr. Wittschen asked they are going to want a pool?

Mr. Vero said yes, it will be located between the house and the cottage, and again if they do a 16' x 32' pool he will be under the 20% lot coverage.

Mr. Badzik said there is a survey that has 21%.

Mr. Vero said yes, that's the survey with the Department of Health approval on it, which is different than what we had to submit with this packet, but I want you to know we do have Department of Health approval.

Mr. Wittschen said there's no swimming pool on that survey.

Mr. Vero said no, right now we're not showing the pool. We won't need a variance for the pool and we'll be under the lot coverage with one.

Mr. Wittschen said okay.

Mr. Vero said I don't think we adversely affect the Grassmere Inn property to the North, because the Inn is further to the North West corner and then his other cottage is back to where this property

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has a cottage as well, so that front corner if it was to ever be developed would be parking and the house would not affect anything.

Mr. Musnicki asked if they are proposing any screening on the North side?

Mr. Vero said there is a hedge now, they are going to compliment that hedge and the South side has a beautiful hedge now and the back of the property has a hedge as well so it's very private. If you go up and down Beach Lane the houses are older homes that are relatively wide and I could do a 30' wide house, which would be long and narrow but we're trying to reconstruct what was there before.

Mr. Piering asked how much higher it will be?

Mr. Vero said it will be the same height to ridge.

Mr. Piering asked if it's going to be a three-story house?

Mr. Vero said no its not.

Mr. Piering said so it'll be a two-story house, but the same height.

Mr. Vero said yes. It might be lower than the house was but he can't confirm.

Mr. Piering said the side yard setback is because it's such a narrow lot?

Mr. Vero said yes, they did go and pay for a single and separate and the lot is single and separate prior to 1953, and we don't follow the criteria, we still need the 40,000 square feet. The lot is only 26,000 square feet.

Mr. Musnicki asked if there were five bedrooms in the old house?

Mr. Vero said yes. There were two rooms that you had to walk through one of them to get to the other, so even though you can put beds in them they are not counted in the bedroom count in the State Code. We are not increasing than what was pre-existing.

Mr. Piering asked if there were any other questions.

There were no other questions or comments.

Motion was made by Mr. Piering to close the application of **Fein, 13 Beach Lane (905-011-03-011)** for a determination; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

5. HCMC, 51 Old Riverhead Road (905-004-01-010) In association with a site plan application to construct additions and convert a building for a contractors' office use, applicant requests variances from §197-5 A for proposed conversion of and additions to a nonconforming building (substandard front yard setback) where conformity is required for additions and alterations, from §197 Attachment 2 for a proposed front yard setback of 27.4 feet where the minimum required is 50 feet, and from §197-80.7 F for a proposed rear yard setback of 49.3 feet where the minimum required is 50 feet.

Tara Hakiimi, Esq., appeared on behalf of the application on behalf of Heather A. Wright, Esq. The property owner is a new owner, they purchased the property in December 2019, and the lot is 20,182 square feet, and it is 188.53 feet wide and it's non-conforming in the HD District. As the Board is aware, the Code has recently amended to allow for General Special Trade Contractor Office by a Special Exception in the HD District, and as the Board knows the HD District requires a lot area of 300,000 square feet with a lot width of 300' and 50' front yard setbacks, with a required rear yard set back of 100' therefore, any proposed construction or addition would require a front yard or rear yard relief. The proposed site plan is for a General Special Trade Contractors Office for the applicant's property management business which does include overnight vehicle parking. The applicant is proposing to renovate the existing structure which now is 502.25 square feet, and add an addition of 1,395 square feet for a total area of

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1,898 square feet. Since we are renovating the existing structure, we are looking to add the 1,395 square feet which will dramatically improve the dilapidated two-story structure, we are requesting for a front yard setback for 27.4' where 50' is required. The first floor will be used for the applicant's business; the second floor will provide office space for perspective tenants and the basement will remain unfinished and used for storage. We were able to pull surveys of neighboring properties and structures are situated less than 50' from the front yard setback. Even if we were to move the structure that does exist and push it back to a compliant location 50' from the front it would require a rear yard setback which is exceedingly great.

Mr. Piering asked if the rear yard setback is less than 1' and is that because of the existing structure?

Mr. Lombardo said it's not the building that's projecting in the rear yard it's the canopy. If that's an issue he can cut that back a few inches.

Mr. Piering said it's a few inches, it would do away with the whole variance.

Mr. Lombardo said yes.

Mr. Badzik asked if there is a rear entrance under the canopy?

Mr. Lombardo said yes.

Mr. Hammond said if the canopy is less than 3' the idea is to not get rained on when you go in and out of them, if there's a builders error of 6" but point well taken not to go with the variance because the lot is so narrow I would almost rather for functionality you take the variance, and have the canopy.

Mr. Piering said you want a canopy that's going to perform a function otherwise there's a 2' canopy that is just there. But is that what dictates the rear yard setback variance?

Mr. Lombardo said yes.

Mr. Hammond said the Code says any roof overhang beyond 12" has to be counted.

Mr. Piering said okay.

Ms. Hakimi said the rear yard relief request is minimal but it's just for the canopy only. The applicant is going to abandon the old sanitary system and putting in a new one, and they have applied to the Department of Health and they have a landscaping plan with a 10' buffer around the premises for screening from the street and the neighbors and they do not have any opposition from any neighbors to date.

Mr. Hammond said this is before the Planning Board as a site plan and it's also before the Board of Trustees as a Special Exception Permit so both of the Boards will further look at the landscaping and noise mitigation and things like that. But because of the size of the building and the overall element, the Type II action does not require coordination so this Board can act before any of those Boards.

Mr. Musnicki asked what the lot coverage is?

Mr. Lombardo said it's 9.6%.

Mr. Piering asked if they have enough parking?

Ms. Hakimi said they are proposing 22 parking stalls with one handicapped space. And they are allowed one vehicle per 200 square feet, so they are right there.

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Mr. Piering said okay. We have gone through the parking in the past, like with the North Mall site when they wanted to expand, and I know you're not asking for it, I just want to make sure the calculations are correct.

Mr. Lombardo said by the calculations we need 21 spaces, and we are providing 22 spaces so we are there.

Mr. Badzik asked if the main entrance is in the front of the property?

Mr. Lombardo said yes, it is. There is a secondary entrance in the back but the reason we have that is for quick access but I also have the ability with the grade to make it come in level with the grade so anyone who is not ambulatory can come in to the building so it is an added benefit by having that second entrance.

Mr. Badzik said it will be a nice addition to that side of Old Riverhead Road.

Mr. Piering asked if there were any other questions or comments. There were no further questions or comments.

Motion was made by Mr. Piering to close the application of **HCMC, 51 Old Riverhead Road (905-004-01-010)** for a determination; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

Motion was made by Mr. Piering to adjourn the meeting at **6:05 p.m.**; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.