

June 18, 2020

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, June 18, 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

1. Michael & Karoline Kelsen, 72 Beach Lane (905-015-03-004.06) Applicant requests a variance from §197-5 A(1) to create additional habitable space within previously unfinished attic space on a preexisting nonconforming finished third-story of a single-family dwelling, representing an increase in degree of nonconformity where §197-6 E limits single-family dwellings to two stories.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

-----X
In the Matter of Application of

Michael Kelsen
Karoline Kelsen

DETERMINATION

Address: 72 Beach Lane
SCTM #: 905-15-3-4.6

-----X

I. REQUEST FOR RELIEF

The applicants, Michael Kelsen and Karoline Kelsen are the owners of a parcel of real property located at 72 Beach Lane. The property is located wholly within the R-1 Zoning District. According to the survey of the property drawn by Raynor, Marcks & Carrington Surveying dated September 25, 2018, and updated on November 13, 2019 the parcel is improved with a three-story frame house, second story deck, swimming pool, frame pool house, and detached frame garage.

Section 197-5.A (1). of the Village Code provides that in the R-1 Zoning District, except as provided for in Subsection A(2), no building, structure, or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved, altered, enlarged or extended unless in conformity with the regulations herein specified for the district in which it is located.

June 18, 2020

Section 197-6.(E) of the Village Code provides that in the R-1 Zoning District, no building shall exceed two stories and a height of 32 feet above the determined base flood elevation. All buildings in an area of special flood hazard, as defined by Chapter 91, Flood Damage Prevention, shall not exceed a height of 40 feet above mean sea level except as is set forth herein.

The applicant is proposing to create additional habitable space within previously unfinished attic space on a pre-existing non-conforming finished third-story of a single-family dwelling representing an increase in the degree of non-conformity.

II. SEQRA

The applicant submitted an Environmental Assessment Form Part I pursuant to the State Environmental Quality Review Act (SEQRA). Because the application involves an accessory residential structure and setback variance, the action is classified as a Type II action under 6 NYCRR § 617.5(c)(10) and (12), and therefore no SEQRA review is required.

III. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on June 18, 2020. The applicants' attorney James N. Hulme, Esq., appeared and presented the application.

No other persons appeared in support or opposition to the application, and the Board did not receive any written submissions from any neighbors in support or opposition to the application.

The hearing was closed at the June 18, 2020, meeting for a determination.

IV. GOVERNING LAW

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

In considering applications for area variances, the Board is required to weigh the benefit to the applicant against the detriment to the health, safety and welfare of the community, while considering the following five factors: (1) whether the variance will cause an undesirable change in the character of the neighborhood or a detriment to nearby properties; (2) whether the benefit can be achieved by a feasible alternative; (3) whether the variance is substantial; (4) whether the variance will have any adverse physical or environmental impacts; and (5) whether the alleged difficulty was self-created (which shall be relevant but shall not necessarily preclude the variance).

June 18, 2020

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.

II. FINDINGS AND CONCLUSIONS

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

1. *Character of the Neighborhood:*
2. *Alternatives:*
3. *Substantiality:*
4. *Physical/Environmental Impacts:* No physical or environmental impacts have been identified.
5. *Self-Created Difficulty:*
6. *Benefit vs. Detriment:*

The Zoning Board therefore grants the requested variances as described above and as shown on the survey drawn by Fox Land Surveying, dated September 25, 2018 and last updated November 13, 2019, subject to the following conditions to minimize any adverse impacts from the variance:

III. 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 structure or any other structure located on the property that has non-conforming dimensions, without further approval of this Board.
2. The variances granted herein shall terminate unless a building permit and certificate of occupancy are issued within 180 days from the date hereof.
3. There can be no exterior work performed on weekends from May 1 to September 30 and on weekdays from July 1 to September 10.

Dated: June 18, 2020

Village of Westhampton Beach
Zoning Board of Appeals

June 18, 2020

Motion was made by Mr. Piering to adopt the determination of **Michael & Karoline Kelsen, 72 Beach Lane, (905-15-3-4.6)** as written; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

2. Beth D'Alessio, 3 Liggon Lane (905-003-01-060.01) Applicant requests variances from §197-5 A(1) for a proposed addition within required front (25.6' proposed, 40' required) & side yard (10.7' proposed, 15' required) setbacks where conformity is required for additions to nonconforming buildings, from §197-9 C for a proposed building area coverage of 23.8% of the lot area where the maximum permitted is 20%, and from §197-9 D for proposed side yard setbacks of 10.7 & 13.8 feet where the minimum required is 15 feet with a proposed combined side yard of 24.5 feet where the minimum required is 40 feet, and also from §197-9 D for a proposed rear yard setback or 37.1 feet where the minimum required is 40 feet.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

-----X
In the Matter of Application of

Beth D'Alessio

DETERMINATION

Address: 3 Liggon Lane
SCTM #: 905-3-1-60.1

-----X

I. REQUEST FOR RELIEF

The applicant, Beth D'Alessio, is the owner of a parcel of real property located at 3 Liggon Lane. The property is located wholly within the R-4 Zoning District. According to the survey and sketch plan of the property prepared by Raynor, Marcks and Carrington Surveying, dated November 14, 2018, and last revised on May 29, 2020 the parcel is improved with a one-story frame house, deck, and detached shed.

Section 197-5.A (1) of the Village Code provides that, in the R-4 district, except as is provided for in Subsection A (2), no building, structure or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved, altered, enlarged or extended unless in conformity with the regulations herein specified for the district in which it is located.

Section 197-9.C. of the Village Code provides that, the building area lot coverage shall not exceed 20% of the lot area.

Section 197-9.D. of the Village Code provides that, the front yard depth shall not be less than 40 feet; there shall be two side yards totaling not less than 40 feet; neither of which shall be less than 15 feet; and the rear yard shall not be less than 40 feet.

The applicant is proposing to construction an addition within the required front yard and side yard with a building lot coverage of 23.8%. The applicant therefore requires variances from the front yard and side yard, lot coverage and combined side yard setbacks.

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 June 18, 2020. The applicants' attorney Heather A. Wright, Esq., and the applicant, Beth D'Alessio appeared and presented the application. No other persons appeared in support or in opposition of the application. The hearing was closed at June 18, 2020, 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:*

June 18, 2020

3. *Substantiality:*

4. *Physical/Environmental Impacts:* No physical or environmental impacts have been identified.

5. *Self-Created Difficulty:*

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 Zoning Board therefore grants the requested area variance to allow the construction of the proposed addition within the required front yard 25.6' and side yard of 10.7' with lot coverage of 23.8% , as depicted on the survey of the property prepared by Raynor, Marcks and Carrington, Surveying, Licensed Land Surveyor, dated November 14, 2018, and last revised on May 29, 2020 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.

2. The variances granted herein shall terminate unless a subdivision map has been filed within 180 days from the date hereof.

3. 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: June 18, 2020

Village of Westhampton Beach
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination of **Beth D'Alessio, 3 Lignon Lane (905-3-1-60.1)** as written; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

3. Clint & Elisa Greenbaum, 61 Seafield Lane (905-005-03-011) Applicant requests variances from §197-5 A(1) for proposed additions that increase floor area within a required yard of a dwelling / accessory building with preexisting nonconforming setbacks to the rear property line where conformity is required for additions to preexisting nonconforming buildings (9.1' proposed, 50' required), and from §197-6 D for a proposed addition connecting principal dwelling & detached accessory building resulting in a principal rear yard setback of 8.1 feet where the minimum required is 50 feet.

June 18, 2020

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

-----X
In the Matter of Application of

Clint Greenbaum
Elisa Greenbaum

DETERMINATION

Address: 61 Seafield Lane
SCTM #: 905-5-3-11

-----X

VI. REQUEST FOR RELIEF

The applicants, Clint Greenbaum and Elisa Greenbaum are the owners of a parcel of real property located at 61 Seafield Lane. The property is located wholly within the R-1 Zoning District. According to the survey of the property drawn by Michael K. Wicks Land Surveying, dated August 15, 2019, and updated on February 14, 2020 the parcel is improved with a two-story frame residence, frame garage and in ground swimming pool, and gazebo.

Section 197-5.A (1). of the Village Code provides that in the R-1 Zoning District, except as provided for in Subsection A(2), no building, structure, or land shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved, altered, enlarged or extended unless in conformity with the regulations herein specified for the district in which it is located.

Section 197-6.(D) of the Village Code provides that in the R-1 Zoning 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 is proposing to construct additions that increase floor area of a dwelling / accessory building with pre-existing non-conforming setbacks and for a proposed addition connecting a principal dwelling and detached accessory building.

II. SEQRA

The applicant submitted an Environmental Assessment Form Part I pursuant to the State Environmental Quality Review Act (SEQRA). Because the application involves an accessory residential structure and setback variance, the action is classified as a Type II action under 6 NYCRR § 617.5(c)(10) and (12), and therefore no SEQRA review is required.

III. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on June 18, 2020. The applicants' attorney James N. Hulme, Esq., appeared and presented the application.

June 18, 2020

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 at the June 18, 2020, meeting for a determination.

IV. GOVERNING LAW

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

In considering applications for area variances, the Board is required to weigh the benefit to the applicant against the detriment to the health, safety and welfare of the community, while considering the following five factors: (1) whether the variance will cause an undesirable change in the character of the neighborhood or a detriment to nearby properties; (2) whether the benefit can be achieved by a feasible alternative; (3) whether the variance is substantial; (4) whether the variance will have any adverse physical or environmental impacts; and (5) whether the alleged difficulty was self-created (which shall be relevant but shall not necessarily preclude the variance).

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

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

VII. FINDINGS AND CONCLUSIONS

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

8. *Character of the Neighborhood:*

9. *Alternatives:*

10. *Substantiality:*

11. *Physical/Environmental Impacts:* No physical or environmental impacts have been identified.

12. *Self-Created Difficulty:*

13. *Benefit vs. Detriment:*

The Zoning Board therefore grants the requested variances as described above and as shown on the survey drawn by Michael K. Wicks, Land Surveying, dated August 15, 2019 and

June 18, 2020

last updated February 14, 2020, subject to the following conditions to minimize any adverse impacts from the variance:

VIII. 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 structure or any other structure located on the property that has non-conforming dimensions, without further approval of this Board.

2. The variances granted herein shall terminate unless a building permit and certificate of occupancy are issued within 180 days from the date hereof.

3. There can be no exterior work performed on weekends from May 1 to September 30 and on weekdays from July 1 to September 10.

Dated: June 18, 2020

Village of Westhampton Beach
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination **Clint & Elisa Greenbaum, 61 Seafield Lane (905-5-3-11)** as written; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

HOLDOVER:

4. **Brennan & Sadie Diaz, 7 Bayfield Lane (905-10-4-41)** Applicant requests variances and/or interpretation that such variances are not required from §197-5 A(1) to legalize conversion of a detached garage to a recreation room where the building is considered nonconforming as it is attached to an apartment, and from §197-6 A(2) where converted recreation room use in an out-building is deemed not to be normal and accessory to the principal single-family dwelling use.

5. **Michael & Karoline Kelsen, 72 Beach Lane (905-015-03-004.06)** Applicant seeks an interpretation that the Building Inspector erred in his determination that the subject detached building with preexisting apartment is a nonconforming building and that the proposed game room over garage should be deemed an accessory use to the single-family dwelling principal use. In lieu of a favorable determination from the Board, applicant requests a variance from §197-6 A(2) for proposed habitable space (game room over garage) in detached structures deemed not to be normal and accessory to principal single-family dwelling use, and from §197-29 C(1) for proposed reconstruction and additions to a detached building with preexisting nonconforming apartment where a permit from the Zoning Board of Appeals is required for reconstruction of building with nonconforming use, and irrespective of interpretation, the applicant also seeks a variance from §197-1 for a proposed half-bathroom within accessory building (game room over garage) where plumbing facilities are not permitted in detached buildings other than cabanas/accessory apartments.

James N. Hulme, Esq., appeared on behalf of the application. He said that in May they discussed the application, and they focused on the bathroom in the game room and since then they have submitted a revised floor plan that has removed the bathroom from the game room. This is a two-story apartment, and is in equal in size and scale as it exists today. There is a two-car garage with the game room above with no bathroom and it has been disconnected from the apartment. There is a new exterior entrance. The benefits are that it is bigger, but it is in a complying

June 18, 2020

location. The setback and height requirement are all compliant. The property is large and it is well under the lot coverage, and the property can contain the proposed and the new compliant building within the setbacks.

Mr. Pasca asked Mr. Hulme if he looked at the Code Section 197-14.

Mr. Hulme said yes, and the question is twofold. If the additional room was not part of the apartment does that section of the Code apply?

Mr. Pasca said whether its used in whole or in part it's prohibited so how do we allow the expansion.

Mr. Hulme said that Mr. Hammond assumed it was not part of the apartment.

Mr. Pasca said that Section 197-29 allows construction with no expansion and then it would fit under that criteria. How do you expand a non-conforming use under Chapter 197-14 with no expansion, that triggers a Special Permit.

Mr. Hulme said he would agree with that; Chapter 197-14 leads to Chapter 197-29 and the expansion and balancing test for the variance.

Mr. Pasca said that this Board can't vary 197-29 without a Use Variance, it exceeds the Code allowance and triggers a Use Variance.

Mr. Hulme said that he would like to hold this over to examine the Use Variance and Area Variance and what form of relief this Board can grant.

Mr. Pasca said he has cases from the Town of Southampton that he can forward to Mr. Hulme for him to review as a guideline.

Mr. Hulme said he would like that.

Mr. Piering said to clarify is the square footage of the apartment staying the same?

Mr. Hulme said yes.

Mr. Piering asked if the garage and the game room are getting larger?

Mr. Hulme said no.

Motion was made by Mr. Piering to holdover the application of **Michael and Karoline Kelsen, 72 Beach Lane (905-15-3-4.6)** to July 16, 2020, seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS:

6. Brennan & Sadie Diaz, 7 Bayfield Lane (905-010-04-041) Applicant requests variances and/or interpretation that such variances are not required from §197-5 A(1) to legalize conversion of a detached garage to a recreation room where the building is considered nonconforming as it is attached to an apartment, from §197-6 A(2) where converted recreation room use in an out-building is deemed not to be normal and accessory to the principal single-family dwelling use, from §197-29 C(1) & §197-29 C(2)(c) where such conversion represents a non-permitted increase in floor area devoted to the nonconforming use of a second dwelling in a residential district, and applicant requests a permit from the Zoning Board of Appeals in accordance with §197-29 C(1) to legalize such alterations to a nonconforming use.

James N. Hulme, Esq., appeared on behalf of the application. He said that the property received a variance in July of 2014 it seems the issue with this application is the same as the application he previously presented and whether or not the degree of non-conformity increases the floor area.

June 18, 2020

Mr. Musnicki said he understands that the non-conformity does not go away the location does but the use is still non-conforming.

Mr. Hulme said the variance goes to the property and makes it conforming.

Mr. Musnicki asked if it was an apartment.

Mr. Pasca said that the non-conforming use requires a special permit.

Mr. Hulme said it was reconfigured, the size has not changed. The legal access to the apartment was changed, and there is no increase in the non-conformity. One thing his client would be willing to offer is the door way in to the apartment, they are willing to close that off and you would access the apartment by a separate exterior door.

Mr. Piering said yes, it's a very well-done theater room which was constructed by the previous owner.

Mr. Hulme said they are willing to covenant the conversion of the bedroom and eliminate the doorway.

Mr. DelGiudice asked if the first garage renovation was done prior and not relocated.

Mr. Hulme said no, it was only a garage.

Mr. DelGiudice asked if the setbacks are conforming?

Mr. Hulme said no.

Mr. DelGiudice asked if the renovations to the garage are in the same conforming location. Now it's a media room, not a garage. We would have had it put in to a conforming location if you presented his before it was done. The new owners would need a new application, it could morph with the next owner too.

Mr. Hulme said the location now is conforming.

Mr. Pasca said the first floor does not show a garage, is it a media room?

Mr. Hulme said yes.

Mr. Pasca said the utility room and family and bathroom they are all there?

Mr. DelGiudice asked if the game room is accessory?

Mr. Hammond said we originally talked about Chapter 197-14 accessory to dwelling, and it is not part of the apartment, and presumed its use is for the large dwelling.

Mr. Pasca asked how its accessed? The dwelling being a detached structure with no non conformities to the other uses.

Mr. Musnicki said the non-conformity is increasing by habitable area being used, not a garage for storage. Also, is that a customary accessory use will it be used to set a precedent?

Mr. Pasca said that the latter may play in to the first question of keeping it separate. It is not increasing.

Mr. Musnicki said you need to convince its customary use.

June 18, 2020

Mr. Hulme said the standard for customary access has three (3) factors, subordinate to the primary use on the other side, it is not unusual to have other non-storage uses.

Mr. Pasca said any statistics about game rooms? Is it precedent setting.

Mr. Piering said they have no questions.

Mr. Pasca said there are a few issues to be decided.

Motion was made by Mr. Piering to close the application of **Brennan and Sadie Diaz, 7 Bayfield Lane (905-10-4-41)** for a determination; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 absent.

7. Mathew & Deborah Vivek, 206 Main Street (905-013-02-020.06) Applicant requests variances from §197-43 A(1) to erect a driveway gate (fence) in the front yard that is 7 feet in height, where the maximum permitted is 4 feet, from §197-43 A(3) for proposed driveway posts/pillars that are 7 feet in height where the maximum permitted is 6 feet, from §197-43 A(7) for proposed driveway posts/pillars that are 1 foot from the lot line where the minimum required setback is 3 feet, and from §197-43 A(8) for proposed driveway gates 1 foot from the street line where the minimum required setback is 20 feet.

James N. Hulme, Esq., appeared on behalf of the application. He said that beginning on the right side of the main house, the North side they want to install gates and pillars as shown on the aerial photograph the house is set forward, and if we moved the gates back 20' they would be in the middle of the applicants front yard. There is a house at 25 Seafield Lane, 18 Beach Lane, 124 Beach Lane and 86 Beach Lane all with gates and pillars, and please keep in mind that these streets do not have a paved right of way and they are set back from the road. The applicants property is a unique location, and it is on a busy street and the client is looking for privacy from the traffic and the commercial use across the street. The lot is deep in the front yard and close to the lot line and the house is very narrow.

Mr. Piering asked if the applicants are new owners?

Mr. Hulme said yes.

Mr. Piering said that they bought the house with Main Street and the commercial use there.

Mr. Hulme said yes, but they could not install any gates that comply with the Code.

Mr. Piering asked if he knew of any instance wherein a property received a variance?

Mr. Hulme said he suspects that the properties he named did not benefit from a variance.

Mr. Piering said that this property has hedges and a fence, and that 7' pillars and 6' gates against the sidewalk will be a lot in that area, can they be moved at all?

Mr. Hulme said he did not know, but he would speak with his clients.

Mr. Piering said it will look more like a wall, he does not see it as fitting in with the character of the neighborhood.

Mr. Hulme said the neighborhood is made up of condominiums, a commercial rehabilitation center, the Seafield Center; and residences to the East.

Mr. Piering said they are at the North side of the street, the very beginning of the residential part of the town.

June 18, 2020

Mr. Hulme said that there is more business traffic from the Seafield Center directly across the street, and from the condominiums to the West than there is to any of the residences further East down the street.

Mr. Piering said he just cannot see this in this location.

Mr. Musnicki asked if they are proposing them for security or privacy? Did they add a second curbcut to the driveway, or was it like that when they purchased the property.

Mr. Hammond said that's correct, the curbcut was added.

Mr. Musnicki said the front has a privet hedge, are they looking to install the gate to keep people out, or for privacy. The privet provides privacy.

Mr. Hulme said they are looking for both, privacy and to keep people out.

Mr. DelGiudice said a 4' fence can keep people out and give privacy as well.

Mr. Hulme said it is more about the commercial traffic.

Mr. Musnicki said the height of 4' or 7' is a problem, but also the cars backing up waiting to get in through the gates as they open. They will be backed on to Main Street.

Mr. Pasca asked if the driveway serves as a one way in and one way out?

Mr. Hulme said he did not know.

Mr. Pasca said if its exit only that's not a problem, but if its both that is an issue.

Mr. Hulme said he will look into it.

Mr. Badzik said he would like to see the gate and the fence.

Mr. DelGiudice said he would like to see the function of the gate as well and how it will open.

Mr. Hulme said okay.

Motion was made by Mr. Piering to holdover the application of **Mathew & Deborah Vivek, 206 Main Street (905-13-2-20.6)**; seconded by Mr. DelGiudice and unanimously carried 5 ayes, 0 nays, 0 nays.

Motion was made by Mr. Piering to adjourn the meeting at 5:50 p.m.; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.