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Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, February 18, 2021, 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
Ellen Cea

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

Maeghan Mackie, Building Permits Examiner / Board Secretary

Motion was made by Mr. Piering to adopt the minutes of the **December 17, 2020** meeting; seconded by Mr. Badzik and unanimously carried: 5 ayes, 0 nays, 0 absent.

Motion was made by Mr. Piering to adopt the minutes of the **January 21, 2021** meeting; seconded by Mr. Musnicki and unanimously carried; 5 ayes, 0 nays, 0 absent.

DECISION:

1. 804F Realty, 112 Montauk Highway (905-005-02-014.01) Applicant requests variances from §197-5 A(1) for proposed partial conversion of a building with a nonconforming side and rear yard setbacks (16.3' side yard existing where 20' is required, 12.9' rear yard existing where 50' is required) where conformity is required for substantive alterations, from §197-17.1 for a proposed canopy with front yard setbacks of 20.1 & 25.5 feet where the minimum required is 50 feet, and from §197-22 C for proposed parking 6 feet from the property line where the minimum is required 10 feet.

Motion was made by Mr. Piering to adopt the determination of **804F Realty, 112 Montauk Highway (905-5-2-14.1)** as written; seconded by Ms. Cea and unanimously carried 5 ayes, 0 nays, 0 absent.

HOLDOVERS:

2. Kenneth Hoefler, 445 Dune Road (SCTM 905-017-05-005) Applicant requests variances from §197-5 A(1) to construct a second-story addition on a dwelling with preexisting nonconforming side yard setbacks where conformity is required for additions on preexisting nonconforming buildings (proposed side yard setbacks of addition are 10.8' & 13.5' where a minimum of 20' is required and with a combined side yard of 24.3' where a minimum of 50' is required), and from §197-35 C to reconstruct an attached rear deck with side yard setbacks of 6 & 10.8 feet where a minimum of 20 feet is required and a rear yard setback of 70.2 feet to the crest of the dune where a minimum of 75 feet is required.

James N. Hulme, Esq., appeared on behalf of the application, together with Mr. and Mrs. Hoefler, Michael Burner, Aram Terchunian and Nicholas Vero, Architect. Mr. Hulme said as you know from our last hearing on this we had to pivot due to technical issues with the perfect and we pivoted to a new home but we're still seeking the same setbacks and the like and proposing the same location as we were initially. You had asked us a few questions that we had to review and the most simple was the lot coverage, and after several attempts with the surveyor we got to the true number and I will submit those surveys next week to the office. The ones you have are incorrect, but for the record the existing lot coverage is 24.5% and the proposed is 19.65% so we are moving from out of compliance to compliance. The other issue was the relief were seeking for the side yard setback relief for the first floor and there was initial discussion about the percentage we were seeking as compared to the Code requirement and the only comment I made is the pure percentage is not how you need to look at this, while a percentage may be part of it it's the context in the neighborhood and we discovered this property and a few adjacent properties are transitional because they are being challenged by their narrow width and there is the Sandpiper to the West and another co op much larger in size lot and not comparable to this. To the East you find yourself in Pond Point and this would work perfectly there, so we are at a

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transition point where our property lies and Mr. Terchunian has put together a presentation to discuss and describe our circumstances.

Aram Terchunian, said they are in a transitional area and he did investigate and their parcel is to the East and the analysis he did which were three lots, 443A, 443 and 445 Dune Road all narrow; the lot to the West is 120' and the other lots are 90' and this lot is 64' and the other two are about 40'. I did my analysis based on that and all are subject to variances. The most recent survey shows the West and the East side yard setback and the lot coverage, of 19.65% which is under the allowable 20%. I looked at the existing conditions of the house and decks and we looked at the lot width, the front yard setback and the South and East setback and the West side yard setback and the Crest of Dune setback and the decks are much closer and then I went through what we're asking for, we are asking to maintain the same 16.3 on the first floor and decreasing on the West side and the second floor we're stepping back and 24.3' in overall side yard setback. What's happening on these other two lots, and we looked at the three lots and we called out the East and West side yards I pulled our parcel out of it and the number doesn't change, and then I looked at the proposal of 16.3' and we're on top of the average of what exists and what's proposed. I looked at what these 443 and 443A look like before they got variances and then after. You can see the pre existing at 443 Dune Road had a combined of 18.8' and they got a variance to 18' and they did what we're proposing to and they increased the shorter side yard and to even it out more. On 443A they had an initial pre-existing side yard of 11.33' and the variance that this Board granted was 14.3' so when you look at this neighborhood which is transitional which is in harmony with the existing side yard setback and the second story will be stepped in and the variances are two stories at the setback line and the first story at the setback line and the second story 4' further in so we're increasing the setback by 8'.

Mr. Piering asked if the variances he's referring to; what were they for?

Mr. Terchunian said they were all new construction.

Mr. Piering said in 2002 and 2016.

Mr. Hulme said they will file a copy of this digital presentation.

Mr. Pasca said we need those decisions that you're referring to.

Mr. Piering said yes, you have to submit them, what are the names?

Mr. Terchunian said Kleinecht in 2002 and the other was Marooney.

Mr. Musnicki said that's helpful, and I don't know that you can pick and choose the property's and we're looking for the character of the neighborhood and the three smallest lots to the East is not fair to choose just them.

Mr. Terchunian said I would agree with you, but why don't I jump into Pond Point then and I think the reason we're transparent for selecting three parcels and explaining that these are the three narrowest parcels in this stretch to the West and Pond Point to the East so to throw in a 123' wide lot doesn't make sense. You can't cherry pick out of Pond Point stuff that will be much smaller.

Mr. Pasca said Pond Point is a separate zoning district and we stick the same zoning district and we should stick to the same side of Dune Road. Three properties is the smallest sample size of a neighborhood analysis how do you draw a conclusion for three properties when you have a completely different neighborhood analysis.

Mr. Hulme said you do and you don't the character of the neighborhood is the western portion is really large and as you move it gets smaller to the East and this is the inflection point to the West and the smaller lots to Pond Point and these are the characteristics that we have and these are three in a row that fit the curve.

Mr. Musnicki said that's fine but there's nothing in zoning in the form of transition. The zone is the zone and there's nothing in the Code that allows you to transition.

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Mr. Hulme said they character of the neighborhood is not talking about the whole zone, if you had to compare to every lot in the R3 that's inappropriate as well. We are taking subsets and neighborhood character doesn't recognize the zones, and the character of this is wide to the West and narrow to the East and these fit in that curve and that's why we're comparing them.

Mr. Piering said you did good research; when I look at this and you have a new house and we have been through this many times that now there's a vacant piece of property this lot is 65' wide and the lot is 35% undersized so if we apply that formula to the side yard setbacks you should be asking for a 13' setback instead of the smaller amount and doing a new house that would be a pretty good starting point to work with.

Mr. Hulme said if you're looking at pure percentages, you're not taking in to consideration the neighborhood character qualities. The other comment I want to make, we're not asking for more we're asking for less and if we're able to move the house in the manner in which we first suggested we'd probably get that variance so why should the path we have to take make a difference, why should we be penalized for constructing a new house. At the end of the day the process is the balance of benefit versus detriment. It will be FEMA compliant and modern Code compliant and we'd be in the same place that we would be if we could go in the other direction. No neighbors have opposition and they are not any more impacted with the variance than they are now because we're maintain the setbacks and we're not trying to get more on the top we're stepping back further and at the end of the day there is great benefit both ways and little harm either way in granting this relief you're not changing the neighborhood character at all.

Mr. Piering said that's an excellent point, but as Mr. Musnicki pointed out, the relief you got when the house was built everything is different now, the Code is different now and because you got a side yard setback back then doesn't automatically grant you the relief, you can't move the house it's a moot point and the balancing test is part of this. You're building a brand new house and you can do so with more of a side yard on either side and we try to maintain the minimum side yards and we understand it may not be feasible but to cut that down its significant and it can be changed and made to be more conforming.

Mr. Pasca said one argument that is made, they say the benefit is not to knock the house down and reuse the house so don't make us lose the setback but once you nock the house down that benefit is not part of the equation the benefit versus the detriment. It is different with new construction versus moving a house and the benefit you're seeking is to save the house where that's no longer an issue

Mr. Hulme said the new house provides additional benefits and the other feature in this case we are mobbing the house back from the Dune Crest.

Mr. Pasca said last time, Mr. Vero was going to work on the plans, have they been redone?

Mr. Hulme said no they have not been redone.

Mr. Pasca said they said they could meet the 75' Dune Crest setback.

Mr. Hulme said it's only a 2.5' corner of the deck.

Mr. Pasca said I'm asking for clarity.

Mr. Piering said he could do it.

Mr. Hulme said we don't have a plan that shows that, if it makes a difference we'd be happy to do it.

Mr. Piering said there are significant improvements and we're trying to achieve what's best for the Village and the applicant.

Mr. Hulme said okay, we will redo the plans and see if we can eliminate that variance altogether and we would be happy to offer it up.

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Mr. Piering said yes, I thought that was done. He would like to look at the variances that they referred to tonight. I would like to hold this over again.

Mr. Pasca said everything that was presented has to be submitted.

Mr. Hulme said oaky.

Motion was made by Mr. Piering to holdover the application of **Kenneth Hoefler, 445 Dune Road (908-17-5-5)** to March 18, 2021; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

3. Barbara Schnitzer, 423 Dune Road (905-017-05-030) Applicant requests variance from §197-35 C to legalize a deck extension constructed 9.34 feet from the property line where a minimum of 20 feet is required.

No one appeared on behalf of the application. Diane Herold requested to hold over the application of **Barbara Schnitzer, 423 Dune Road (905-017-05-030)** to March 25, 2021.

Motion was made by Mr. Piering to holdover the application of **Barbara Schnitzer, 423 Dune Road (905-017-05-030)** to March 25, 2021; seconded by Ms. Cea and unanimously carried 5 ayes, 0 nays, 0 absent.

4. William Jebaily, 506 Dune Rd (905-016-01-004) Applicant requests variances from §197-5 A(1) to construct a second-story addition on an existing dwelling with nonconforming side yard setback of 8.6' where 20' is required, a substandard combined side yard of 29.2' where 50' is required, and second-story addition has a rear yard setback of 62' where 75' is required, all where conformity with current dimensional regulations is required for additions to dwellings with nonconforming setbacks.

No one appeared on behalf of the application. Diane Herold requested to hold over the application of **William Jebaily, 506 Dune Rd (905-016-01-004)** to March 25, 2021.

Motion was made by Mr. Piering to holdover the application of **William Jebaily, 506 Dune Rd (905-016-01-004)** to March 25, 2021; seconded by Ms. Cea and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS:

5. Christopher Glover, 52 Lilac Road (905-005-01-017.02) Applicant requests variances from §197-5 A(1) to construct a second-story addition on an existing dwelling with nonconforming side yard setback (19.6' existing/proposed, 20' required) where conformity with current dimensional regulations is required for additions to dwellings with nonconforming setbacks, and from §197-7 D to construct a roofed-over entry patio with a proposed front yard setback is 36.3 feet where a minimum of 50 feet is required.

Todd O'Connell Architect appeared on behalf of the application. He said that they are requesting several relief, this property itself is conforming and the residence on it is non conforming, and the existing does not meet the minimum setbacks and they are looking to do minor renovations to their home and it will affect their relief. Other than the front portico which is uncovered roof over, we are not diminishing the setbacks on the existing residence itself. The existing which yields a 19.6' side yard setback will be done to build a bedroom, we aren't increasing the height and we're looking to maintain the existing height and dormering it to get existing space on the second floor. We were conscious to the rear of the property we built a pergola off of the back and we're holding it in the 5" to yield the 20' side yard setback but the vertical nature we're looking to maintain that setback and in addition to that the existing home has a front yard setback of 40.3' and we're not diminishing the existing setback and we're looking to build a 4' front portico on the front if we tried to build something that conforms with the home these are the setbacks that are current. We are going to make it look nicer and add character to it and add to the neighborhood, There's no negative environmental impact and it's the minimum request to the Board to accommodate their renovation.

Mr. Piering asked why they have 4/10th request if a variance, is it to continue the existing line?

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Mr. O'Connell said yes. To step it in will look like a mistake.

Mr. Piering asked if there were any questions.

Mr. Hammond said it could have been originally built with a builders error.

Motion was made by Mr. Piering to close the public hearing of **Christopher Glover, 52 Lilac Road (905-5-1-17.2)** for a determination; seconded by Mr. Musnicki and unanimously carried

6. Yvonne Figarella, 396 Dune Road (905-017-04-001) Applicant requests variances from §197-8 C for single-family development with a proposed building area lot coverage of 24.6% where a maximum of 20% is permitted, from §197-8 D to construct a new dwelling with a proposed rear yard setback of 60.8 feet where a minimum of 75 feet is required, from §197-35 C to construct an accessory deck with a setback of 14.8 feet where a minimum of 20 feet is required, and also from §197-35 C to construct an accessory swimming pool with a setback of 17.2 feet where a minimum of 20 feet is required.

James N. Hulme, Esq., appeared on behalf of the application. We are replacing it with a new house that's modest and if approved will only take up 7.8% of the overall lot coverage and meets the front yard and side yard requirements and is 60.8' from the wetlands and it is 75' from the rear lot line as shown on the survey but the lot line extends beyond the wetland line so I'm not sure how the Board would treat that, but that's the only relief and necessary based on the retreating shoreline as the wetlands grow if we're going to use the wetlands line as the line of demarcation than they keep losing property and they are at the required front yard and side yard setback so there's no other place to grow except closer to that line and that's the motivation to that part of the application. The other part is a deck and that's a deck that's almost 400 square feet smaller than the existing deck abut its more sensibly and newly constructed so it's better construction and extends no closer to any of the lot lines than the current deck and it's 2 dimensional space rather than 3 dimensional space so it does not interfere with site lines that a house might and the pool is within the deck and if you are inclined to grant that you would go with the pool as well and the reason is that they wanted a new home and enjoy their outdoor space so the house is not that big and they designed the house and filled in this space that is occupied by deck and that is because it's a 16' and the grade is 5.2' feet and there's staircase to get to the pool. The bulk of the overage for the lot coverage is what I would call 2-dimensional space it grows out not up and the coverage goes from 25.2% to 24.6%.

Mr. Musnicki said he had a few questions, maybe Mr. Terchunian can answer this. The wetlands demarcation, does that change?

Mr. Hulme said yes.

Mr. Terchunian said they do, but it depends on the situation and they could be stable. That's a sandy shore line situation and I actually was in that area and the wetlands line is pretty stable there.

Mr. Musnicki said okay. He asked Mr. Hulme, is the reason the pool can't be pulled back to 20' because it's a negative edge pool?

Mr. Hulme said yes.

Mr. Pasca said the survey shows on the left mean high water mark and the right says Wetlands, is that the mean high water mark?

Mr. Hulme said yes and that's consistent with life on the bay.

Mr. Hammond said he asked for that to be flagged, and short of that you go by the bulkhead and the mean high water mark is where the property ends and that's why we want the setbacks from that line.

Mr. Pasca asked if there is a DEC permit?

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Mr. Hulme said as of now, no but we will need one. There is a bulkhead so it may cut off jurisdiction.

Mr. Terchunian said he'd look into that.

Mr. Piering asked about the lot coverage.

Mr. Hulme said it's mostly the deck and its elevated and you don't want to walk down to grade and back to a deck and the people who own this the deck is 400 square feet less than the current deck so we'd like to maintain that consistency.

Mr. Piering asked how the lot coverage diminished.

Mr. Hulme said the overall is going down from current to proposed. The deck itself went down a lot and the house got a little bigger.

Mr. Piering said okay. The house is confirming as far as the setbacks correct?

Mr. Hulme said yes, except for the 75' from the MHW mark but otherwise its completely conforming.

Mr. Piering said the front yard setback on the bay side is 50'.

Mr. Hulme said yes, and to take it off it will make it really small in this neighborhood.

Mr. Piering asked if there were any other questions or comments. Do we have to wait for the DEC permit?

Mr. Pasca said no, they can let us know the answer and it will be subject to a DEC permit or not but that doesn't change anything this Board has to do.

Mr. Hulme said they will submit that.

Motion was made by Mr. Piering to close the hearing of **Yvonne Figarella, 396 Dune Road (905-17-4-1)** for a determination; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

7. WHBH Real Estate LLC, 7 Beach Lane (905-011-03-010) Applicant requests variances from §197-16.4 A to construct a proposed parking area partially located in the front yard where specifically prohibited, from §197-16.4 D to construct additions resulting in a proposed building of 9,330 square feet in gross floor area where the maximum permitted is 6,000 square feet with special exception criteria per §197-80.2, from §197-17.1 to construct a cabana building with a rear yard setback of 8.3 feet where a minimum of 30 feet is required, from §197-29 C(2)(c) to construct proposed additions representing an increase and/or extension of area devoted to a nonconforming use of a hotel/inn where specifically prohibited, and from §197-63 for a proposed vegetated buffer to the south 5 feet in width where a minimum of 10 feet is required.

James N. Hulme, Esq., appeared on behalf of the application, together with Alexander Badalamenti, Architect.

Mr. Piering said there is a lot to this application and it really has to go to Planning.

Mr. Hulme said yes, we know that and we'll ask for a work session with the PB and there needs to be SEQRA coordination, and things of that nature. This is just the beginning of this process and we understand we'll be with both boards for a little while.

Mr. Piering said he requests for the PB to be the Lead Agent.

Mr. Hulme agreed with Mr. Piering.

Mr. Hulme said it's the former property of the Grassmere Inn and they want to renovate and

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reestablish as an attraction to the Village and it has been in disrepair for quite some time and the CO for the property talks about three structures and there are only two now and there was another building in the NW corner of the property and that's no longer there. But the plans involve the removal of the other building and the renovation of the main building in its current location and there will be three or four less rooms than the current situation on the site and we're proposing a swimming pool and cabana and there was a pool approved for the property in 1998 which was 18' x 36' and I there was a permit to issue but it was never constructed. The current Inn has a dining room, kitchen and living room and we're going to preserve that for the guests and I think we'd agree to limiting that to guests only for dining. We have proposed a small outdoor bar area which would be more publicly available but relatively small and I guess we would argue that amenity is a typical accessory to an Inn. We're trying to take a feature in the Village and I think a great need in this Village for an Inn to have places for people to stay when they visit. As it exists it is not functional or attractive and it's understood it's a special permit because its two lots in the HC Zone and not in the B1 and its preexisting non-conforming and there are a number of area variances and we're taking a detour as to whether or not the non-conforming use is being expanded or not

Mr. Piering asked about the cabana, the pool and the outside bar?

Mr. Hulme said the outside bar is not part of the pool cabana its affixed to the side of the main building as proposed.

Mr. Piering asked who lives behind it on Library Avenue, is that residential? You're going to be 8' off of that property line.

Mr. Hulme said it backs up to Library Avenue and one is a business and he will look into it.

Mr. Piering said his concern is 8' off the property line with residential property's behind it and they will be impacted. There are a few properties that adjoin it and a few down from it.

Mr. Hulme said he is happy to look into that and their uses but we need to keep in mind that they bought next to an Inn we're not creating new.

Mr. Piering said the bar and pool and pool house and it does change the whole atmosphere of the neighborhood.

Mr. Hulme said it's a change the Village is looking for but we can certainly look into it and we want to be mindful of the neighbors and if we need to adjust things and we will work on the landscaping and the fencing and the features.

Mr. Piering said its something he sees initially.

Mr. Hulme asked if they have the site plan the pool and cabana are proposed and we can look at the other side from there and if it requires modification, we can look at it.

Mr. Piering said this is very preliminary.

Mr. Hulme said the outdoor bar is on the South and it's not a significant bar with a big area and most will be hotel guests. The dining facilities will be limited to actual guests of the hotel we're not looking to open that to the public.

Mr. Piering asked how that will work?

Mr. Hulme said the bar is outside, the dining is inside.

Mr. Pasca said since this is our first meeting can you give an overview of the non-conforming use argument.

Mr. Hulme said the building has less rooms and bathrooms and the number of people is decreasing and the gross floor area is increasing over what's there and that's because the rooms are getting bigger and that doesn't increase the number of people who can stay there.

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Mr. Pasca said you have to come up with a way around 29C and that talks about the floor area not increasing.

Mr. Hulme said we're asking for a variance from the Code Section and we've discussed this and I will look into it.

Mr. Hammond said the design professional put the uses of the surrounding properties and I verified that and restaurants are permitted in this district and that may not be a non-conforming use in this area.

Mr. Pasca asked how much of the floor area is changing?

Mr. Hulme said I don't know the dimensions but ball park comparing the old to the new it looks to be the same size and we have submitted floor plans that show those details and I think someone from the architect's offices I here.

Alexander Badamenti, Architect said the square footage is small, it's 24 seats. The outdoor bar is not off of the kitchen its off of the dining area.

Mr. Hammond said they are not always subject to the setbacks and in the more downtown settings, and in the buildings, we do and the patio around the pool its an activity where commercial activity is happening, I didn't call it out as part of the variances but if the PB deems it appropriate and not an expansion it will change.

Mr. Pasca said I'm thinking out loud if there are parts that can be carved out of the 197-29C part of the variance. It's complicated with the mixed use.

Mr. Hammond said there area lot of old style tiny rooms and they'll produce rooms and it's a balancing act from the Board of Health and if you're adding food service there's grandfathering with flow and what you can build and then it has to pass muster with the PB and ZBA and I think that's an argument to what is non-conforming and being reduced and increased and is prudent to submit to this Board.

Mr. Hulme said he can do that. I don't mean to minimize that and its important and that seems to be the issue other than easily remedied dimensional changes.

Mr. Musnicki said he has a few questions, have there been discussions with the BOT and feedback from them?

Mr. Hulme said no.

Mr. Musnicki said there are five variances, lets go through them one by one. The first one talks about parking in the front yard.

Mr. Hulme said that's the history of this lot and we're seeking to keep that so we don't interfere with the pool and I think that's an existing condition to keep.

Mr. Musnicki asked the third-floor area?

Mr. Hulme said it's a half to a third of the top of the building, it's part of the 7,000 and its mu understanding.

Mr. Badamenti said the cottage is about 2,000 square feet so we're adding to the second and third floor on the West side and the East remains.

Mr. Musnicki said it sounds like you're doubling the size of the main building in floor area.

Mr. Badamenti said close, 5,200 square feet to 9,000 square feet.

Mr. Hulme said that number may, subject to your agreeing, change things that are permitted and not permitted.

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Mr. Piering said yes. There is a lot to this application.

Mr. Hulme said it's a 100 year old building and a use that's gone through a lot and we're trying to fix it up and normalize it and let it last another 100 years.

Mr. Musnicki said you cited the pool and the deck and they seem to be tucked in to that corner when you had other options.

Mr. Hulme said we hear pretty loud and clear we should look into that.

Mr. Musnicki asked about the 5' buffer.

Mr. Hulme said I will look into it

Mr. Musnicki said they can't go too deep into it from here.

Mr. Hulme said he wanted general feedback so they can go to the PB and decide how to go forward with the other involved agencies.

Mr. Piering said he understands what he's saying but the expansion he would like to be sensitive to the needs of the people around it. We all know what its like to have a pool and cabana so close to someone's back yard it won't be families with kids and I had a residence where the house was rented out and people were coming in at 1am and it gets loud and a pool and cabana 8' from someone's back yard creates noise and I understand this is a resort Village and we all have to balance that.

Mr. Hulme said we will look at that, and we aren't trying to create a night club and we're trying to create an Inn and include the amenities that Inn guests are used to having now and that's all this is and they are just amenities they want a restaurant, place for a drink.

Mr. Piering said he understands. We are really going to look at the pool and cabana

Mr. Badamenti said to embellish the residential property to the West has two structures on the property line and there is a structure that's blocking the neighboring residential piece. And the only reason for the East West orientation is for sunlight. The cabana is for yoga, stretching things of that nature.

Mr. Hammond said I had to include the section of the square footage and the Code would want apartments and that's not appropriate for this use so they don't need the Trustees but relief they may need for apartments above an Inn.

Gene Streim said they reside to the West of this application and the ramifications will be devastating, the pool would sit 8' from the property line it will be absurd. The bar the cabana and noise level and the undertaking will be adverse to the area.

Mr. Piering said we did talk about that, and asked if they had anything else.

Mr. Streim said it's in the preliminary stages and wants to confirm that and its very contrary to the living conditions in the neighborhood.

Mr. Piering asked if there's anything else. There were no other questions or comments.

Motion was made by Mr. Piering to holdover the application of **WHBH Real Estate, LLC., 7 Beach Lane (905-11-3-10)**; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

8. Shawn & Antionette Munding, 63 Griffing Avenue (905-013-01-024.03) Applicant requests variances from §197-7 C for a proposed building area lot coverage of 23.5% where the maximum permitted is 20%, and from §197-7 D for a proposed side yard setback of 15.2 feet where the minimum required is 20 feet with a proposed combined side yard setback of 37.4 feet where the minimum required is 50 feet.

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Suzanne Mensch, Esq., appeared on behalf of the application, together with Antionette Munding and Craig Arm Architect. Ms. Mensch said her clients purchased this home in 216 and there is a cottage and they are seeking to rebuild a new home. The second issue is that the building envelope is challenging given the Northern property line. They are proposing a three bedroom house and seeking three variances; there is a side yard variance on the North. As you can see the building envelope is plotted and the house would be oddly shaped and hard to create something that is esthetically pleasing and a strong improvement based on what exists and in character with the neighborhood. It requires a new home and appropriate for what we're looking for. There are two letters from the neighbors and the ones to the North are in support of this application.

Mr. Piering said in 2016 there was a variance they needed to separate the tax lots and there were weird lot lines.

Ms. Mensch said yes, and it was a long path in 2016 and it seems that the property was subdivided and not legally a long time ago and there were two structures there and somehow the prior owner was able to purchase this and I can't even fathom how it was done and you worked with her to bring it conformity and approved a subdivision.

Mr. Piering said once the subdivision is approved the lots conforming.

Ms. Mensch said it's a small lot and it's a challenge to build a reasonable home. They are year-round residents and their primary residence and they need more than one bedroom cottage and we feel the proposal is very modest and its three bedrooms and two stories and a garage and accessory structure.

Mr. Piering said the lot is 16,000 square feet and they need 20,000 and they need side yard relief, and its almost proportional to the size of the lot. I think it's a big improvement. I think it's a good job done by the applicant.

Ms. Munding thanked the Board.

Mr. Piering asked if there were any comments or questions.

Mr. Musnicki said the northern property line is the driving force of this.

Mr. Piering asked if he cut off Mr. Terchunian.

Mr. Terchunian said no.

Motion was made by Mr. Piering to close the hearing of **Shawn & Antoinette Munding, 63 Griffing Avenue (905-13-1-24.3)** for a determination; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

9. Jameson Partners LLC, 209 Mill Road (905-008-02-021) Applicant requests variance from §197-5 A(1) for proposed conversion of office to dwelling in a building with a nonconforming front yard setback (13' existing, 20' required) where conformity is required for substantive alterations.

Nicholas Donahue, appeared on behalf of the application. He said there are no exterior alterations they want to convert a single-family home that was an office back to a single-family home for use as a long-term rental, and no exterior changes and to put showers back in the bathrooms a kitchen and interior renovations.

Mr. Piering asked if they went to the Board of Health?

Mr. Donohue said they have to go to the Board of Health, but they don't see any issues because it was a single family home

Ms. Cea asked when it was converted to an office?

Mr. Donohue said it was a single-family home, then converted to an office in the late 1980's.

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Mr. Piering asked about the cottage?

Mr. Donohue said it was always residential and will remain residential.

Mr. Piering said okay.

Mr. Donohue said they purchased the property from East End Hospice and using it as storage and it was residential as far back as we could tell. We purchased in November 2020.

Mr. Piering said okay. He asked if there were any other questions or comments.

Ms. Cea asked if its going to be converted to work force housing?

Mr. Donohue said long term housing. We feel the location is perfect to the school town and small businesses and something that's needed in town and we feel like it would fit the need well.

Mr. Piering said if we grant this you have to follow the Village rental code.

Mr. Donohue said he understood.

Motion was made by Mr. Piering to close the public hearing of **Jameson Partners, LLC., 209 Mill Road (905-8-2-21)** for a determination; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

10. Egret Dune Corporation, 95 Dune Road (905-021-04-002) Applicant requests variances from §197-8 D for proposed side yard setbacks of 10 feet where the minimum required is 20 feet with a proposed combined side yard setback of 20 feet where the minimum required is 50 feet, and from §197-35 C for proposed accessory pool & deck with setbacks of 10 feet where the minimum required is 20 feet.

Nicholas A. Vero, Architect appeared on behalf of the application. His client owns the property they are seeking to variance to build a small modest house on the property and its very narrow and they are requesting two side yard setbacks and a 30' variance and it's proposed as wide as my kitchen and its very long and we're trying to get a four bedroom house and there's no front yard or area variance requested or any from the crest of the dune and I thank Mr. Hulme and Mr. Terchunian for their work on a previous application. And this zone is the R3 and although 445 Dune Road is by the Pond Point this house is narrow and a Pond Point style house and there are many on Dune Road ranging from 200' and this is 35' and a few that I've done and gotten variances. There are a few others and they look at the character of the neighborhood and it will be able to sustain a house this size and you look for the envelope and we're not seeking too many variances. The thing we have going for us and they are looking over the parking lot of the Beach to the West and the house to the East is setback in to the Dune and they will not be looking over on to the deck or pool and the views won't be obstructed. We are 39' wide and we got variances in 2016 and 2002 in the other application.

Mr. Musnicki asked the dune crest set back?

Mr. Vero said it is 75'.

Mr. Musnicki said its not shown on the survey it should be on the site plan and they are seeking a variance for it.

Mr. Vero said it's on his site plan. They do not want a dune crest variance.

Ms. Cea said she does not see it on her site plan.

Mr. Vero said it's on his site plan S-01. It is 75' from the dune crest.

Mr. Musnicki asked how do you construct this home on a 35' wide lot?

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Mr. Vero said you've asked this before and construct from the dune back; the piles go in we build the pool and we have to pump the pool and once the piles are in from the furthest Southerly portion that's how we construct it unless we do a prefab house.

Mr. Pasca said the biggest question how do we know the lot should be a building lot, it looks like a right of way parcel.

Mr. Vero said we have a deed that shows that and I will show you that.

Mr. Pasca said we need a Title Work up and you can have a deed; how did this lot get created and when was it first created does it pre date zoning, is it subject to zoning?

Mr. Vero said at 445 Dune Road it is similar and we can provide that for you absolutely.

Mr. Piering said we're going to look at those variances.

Mr. Pasca said those have houses and there's an argument they were meant to be that. We need proof it was meant to be a building lot.

Mr. Piering said you need a 100' and you have 35'.

Mr. Vero said okay.

Mr. Piering said he remembers when Chris Bean was Chairman and we had an application before this Board for a 40' wide property in the R4 and it needed side yard setbacks and we denied that. And we felt it was too crowded, how is this difference?

Mr. Vero said the advantage is there is the Village beach next door and each lot is different and you've given variances on wider lots and one is mine and it seems to be a balancing act for small lots on Dune Road and smaller than 100' requirements and we have 35' and we can leave it vacant or build on it and if in fact it's buildable and I hope to prove that and if its not I'll withdraw the application. Each piece of property and application stands on its own merits and we're giving the opportunity to use it.

Mr. Piering said I went through the minutes at our last meeting and you could not put a small house on that lot. You make an argument for different houses, and you can't do that.

Mr. Vero said I know that and any property that's fit 50' wide or less the setbacks implode and this setback is negative and that's the challenge of that. I could have put a 5' side yard setback application in and that's unrealistic.

Mr. Piering said okay, and asked if there were any other questions or comments. There were no other questions or comments.

Motion was made by Mr. Piering to holdover the application of Egret Dune Corporation, 95 Dune Road (905-21-4-2); seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

Motion was made by Mr. Piering to adjourn the public hearing at **6:49 p.m.**; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.