

August 19, 2021

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, August 19, 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 June 17, 2021 meeting as written; 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 July 15, 2021 meeting as written; seconded by Ms. Cea and unanimously carried 5 ayes, 0 nays, 0 absent.

DECISIONS:

1. Nancy Burner, 168 Beach Lane (905-015-05-005) Applicant requests variances from §197-43 A(1) to erect driveway gates (fence) of 6 feet in height in the front yard where the maximum permitted height is 4 feet, and from §197-43 A(8) to erect driveway gates 4 feet from the street line where the minimum required setback is 20 feet.

No one appeared on behalf of the application. Mr. Piering stated there was a determination, and the reading was waived.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

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

Nancy Burner

DETERMINATION

Address: 168 Beach Lane
SCTM #: 905-15-5-5

-----X

I. REQUEST FOR RELIEF

The applicant, Nancy Burner, is the owner of a parcel of real property located at 168 Beach Lane. The property is located wholly within the R-1 Zoning District. According to the survey of the property drawn by Barrett, Bonacci & Van Weele, P.C. dated April 12, 2019, the parcel was, at that time, improved with a two story dwelling, two second story decks over patio and masonry patio, as well as a single pre-existing driveway and curb cut onto Beach Lane.

Section 197-43.A(1) of the Village Codes provides that in the R-1 Zoning District, for parcels other than corner lots, no fence located within a required front yard shall have a height greater than four feet.

Section 197-43.A(8) of the Village Code provides that, in the R-1 Zoning District no driveway gates or posts or pillars with an attached driveway gate shall be located within 20 feet of the street lines of the lot. The phrase "street line" is defined in Section 197-1 of the Village Code as: "The line separating the street from the lot."

Without approval of the Village, the applicant began installing a second driveway entrance onto Beach Lane, as well as driveway pillars intended to be attached to gates, at both the original driveway entrance and the newly-created entrance. After being informed by Code Enforcement that the work was not permitted and in violation of the Village Code, the applicant filed an application for variances from 197-43.A(1) and (8) to allow the completion of the construction of driveway gates, 6 feet in height, approximately four feet from the street line, as

depicted on the “Site Plan” prepared by Nicholas A. Vero Architect, PC, dated 3-17-21 (with hand-drawn revisions, undated, depicting “(4) 2’x2’x6’ HIGH MASONRY GATE POSTS & AUTOMATIC GATES 4’ FROM FL.”

II. SEQRA

The applicant submitted an Environmental Assessment Form Part I pursuant to the State Environmental Quality Review Act (SEQRA). Because the application is for accessory residential structures, 6 NYCRR 617.5(c)(12) and (16).

II. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on April 15, 2021. The applicants’ agent, Nicholas A. Vero, Architect, appeared on behalf of the application. No other persons appeared in support or in opposition of the application. The hearing was kept open for discussion at several meetings, and was closed at the July 15, 2021, meeting for a determination. During the hearing, the applicant presented alternative plans (revised as of 5/18/21) that would reduce the height of the gates to 4 feet but at the setback of 3’9” from the street line. The revised plans also showed the 5’ sidewalk adjacent to the street line.

III. 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:* The Board finds that the granting of the variances would have a material adverse impact on the character of the community. The applicant argued that, because the actual paved portion of Beach Lane is substantially west of the street line, there was ample room for a car to stand within the street shoulder area west of the gates while waiting to enter the property. But the revised plans confirm that any vehicle waiting to enter the property would, by necessity, block the sidewalk. In any event, while the blocking of pedestrian or vehicular traffic is one concern that the setback requirements seek to avoid, it is not the only concern. Rather, the code requirements prohibiting driveway gates within 20 feet of the street line and limiting them to 4 feet avoid the creation of a “walled” appearance along the public rights of way. While the wall-like appearance may be the norm in other municipalities, it is not consistent with the character of the Village of Westhampton Beach, and the Village’s code requirements reflect that character by prohibiting tall driveway gates and those within 20 feet of the street line. Here, there is nothing truly unique about the applicant’s property, so granting variances to the applicant would set a precedent that could lead to the proliferation of driveway gates along the public right of way in the R-1 district, if not throughout the Village. The Board notes that, in the relatively recent decision on the application of Vivek (206 Main Street), decided 11/19/20, the Board denied a height variance for driveway gates and only allowed a setback variance after the gates were re-designed to meet a 10-foot setback, and that setback variance was in consideration of the unique neighborhood/property constraints, which did not practically leave sufficient room to meet the 20-foot setback. Here, the applicant’s proposal for driveway gates and pillars less than 4 feet from the street line are not justifiable.
2. *Alternatives:* The applicant has not demonstrated the absence of alternatives to achieve the benefit sought. The existing driveway is sufficiently long to allow for the placement of a conforming gate, setback 20 feet from the street line, without interfering with the parking area.
3. *Substantiality:* The requested setback variance (less than 4 feet from the street line where 20 feet is required) is substantial.
4. *Physical/Environmental Impacts:* No physical or environmental impacts have been identified.
5. *Self-Created Difficulty:* The difficulty is self-created.

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6. *Benefit vs. Detriment:* The Board finds that the detriment to the community outweighs the benefit to the applicant.

The Board therefore **denies** the application in its entirety.

Dated: August 19, 2021

Village of Westhampton Beach
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination Nancy Burner **Nancy Burner, 168 Beach Lane (905-015-05-005)** as written; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

2. **Westhampton Beach Country Club, 35 Potunk Lane (905-009-03-023.01)** Applicant requests a permit from the Zoning Board of Appeals as provided by §197-29 C(1) to demolish a two-story dwelling utilized for staff housing and reconstruct a substantially similar building elsewhere on the property at a later date.

Kittric Motz, Esq., appeared on behalf of the application. Mr. Piering stated that the Board has not had a chance to review their submission of floor plans, and a determination was not ready but would be at the next hearing on September 16, 2021.

HOLDOVERS:

3. **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. They are before the Planning Board and have additional information for this Board. This is the old Grassmere Inn which was an Inn since the late 1800's and continue as an Inn; in support of that the Main building will be renovated with an extension; the cottage is being removed and we're installing a pool and parking. Side note on the pool there is no pool now but there was one fully approved and permitted for close to this area. It was never constructed but had been approved according to the Village records. The main building is three stories with 19-bedroom units, the cottage has 7 for a total of 26. We're proposing 17 units in the main building along with a kitchen dining area and bar which exist now, along with a laundry room and offices. There are some variances we need and one which is for the pool setback and we've turned it from East to West to North to South. The big issue is the Special Permit and compliance with 197-29.C. 2 as to the various factors there and there are 9 or 10 different factors in that section of the Code that need to be met in order for this to go forward; no enlargement or expansion of the non-conforming structure and we are reducing the footprint and the Hotel is remaining in the footprint that exists for the main building. The second is the degree of non-conformity, and I think this is where we want to discuss the different square footages, and compare and contrast them and the applicant's architect is here to discuss the same; and we touch on the gross floor area variance, the Code allows 6,000 square feet and we have some more but comparable to the existing gross floor area. The gross floor area now is 8,740 square feet and after renovation and the addition to the third floor there is 8.630 square feet of gross floor area.

Alex Palimenti, Architect. To Mr. Hulme's point, the cottage is two floors and 2,107 square feet and the existing is a total of 6,630 square feet; we are in addition to demolishing the cottage we're demolishing half of the building and there was an extension being removed, we are only renovating 3,680 of the existing structure and the new addition is three floors and will align with the existing, there will be a total 8,630 square feet on the building. As far as outdoor deck space, we have 339 square feet on the renovated structure and we're adding additional 449 square feet on the first floor, 188 on the second floor and 207 on the third floor so it's 1,380 square feet of additional decks in total.

Mr. Musnicki asked if the living is going down, but the dining is increasing?

Mr. Palimenti said yes.

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Mr. Musnicki asked if space has to be increased due to the Codes today.

Mr. Palimenti said yes, there's mechanical space, Fire Space, Egress and ancillary space in those numbers for circulation.

Mr. Musnicki said okay.

Mr. Hulme said under that if you look at it from the number of bedrooms that will be reduced. The Code requires that the reconstructed or continued use be on the same lot as it is, and you can't exchange one for the other and we're not the use will be maintained. We're working with the Planning Board on off street parking and we don't believe we will need a parking variance. There's no change in the nature of the use. Compliance with dimensional regulations, except for the couple of area variances we're seeking we are under the lot coverage in the main building that meets the setback requirements and height requirements. Beneficial to the neighborhood it is better to update this structure in its condition. Subject to reasonable ZBA conditions, we are amendable to them. And, no interference with the neighborhood, we are proposing and the manner in which we're proposing it will not intensify the existing use. To look at the three or four area variances, one is the gross floor area which only allows 6,000 square feet we are replicating what exists. And we're putting in a more compact space to that extent; there isn't a living use that doesn't comply. And we have a few parking spaces that are in the front yard, but only one or two which we don't think will have an impact. My client has had conversations with the Southerly and Northerly neighbor as far as the nature and extent of buffering to the North and South and the concern was headlights from cars and my client and that neighbor have reached an agreement as to what they can do to not affect the neighbor. I believe the Northern neighbor has had a similar conversation but we're wanting to protect them from the impacts.

Mr. Badzik asked if they spoke with the neighbors to the West.

Mr. Hulme said their main accommodation was turning the pool, and we're turning the pool and eliminating the variance, and the cabana is gone completely.

Peter Sacripane, 13 Beach Lane. For the record, I support this and cleaning it up and we moved from Southampton to Westhampton and I was concerned moving next to this, and I spent a lot of time with them and there is an agreement and it will be papered and it will be enforceable but I want to give my support to that.

Mr. Gluckstall 7 Beach Lane said we are in agreement and it's a business agreement and we're improving the shared concerns and it's a memorandum of understanding and I am committed to the improvements and allow it to survive with the property.

Mr. Pasca said I don't want to know what the terms are, what we need to know going forward is that you're expressing your support and no opposition and their agreement has no bearing on this Board.

Mr. Piering asked if there's an updated plan? If not, we will want one.

Mr. Pasca said the procedural issue is SEQRA. The Planning Board will coordinate review. We will have to spend time reviewing this, and the only number jumping out at me is the 207 outdoor deck goes to 1,388 and you have to make an argument about that not being an expansion

Mr. Hulme said they will address it.

Mr. Musnicki said if you have printed material for the next meeting that will be helpful.

Eileen and Gene Streim, 12 Library Avenue asked about the lighting.

Mr. Hulme said I don't know yet, but we do know the Village has a very strict lighting Code and we cannot bleed off of our property on to yours.

Mr. Pasca said the Planning Board will review it, and as part of the site plan process there's a plan required and will be reviewed by the Village Engineer.

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Ms. Streim asked if the pool will be heated?

Mr. Gluckstall said yes.

Ms. Streim asked about propane tanks on the property.

Mr. Gluckstall said probably LP Gas and it will be within the setbacks.

Ms. Streim said okay.

Mr. Pasca said that will also be an issue to be reviewed by the Planning Board, and you should follow that process because that's where the details are worked out.

Cindy Davis, 1 Beach Lane asked what the existing use is.

Mr. Hulme said the CO is an Inn and the back house was an Inn.

Ms. Davis said when the restaurant and bar is added is that part of the Inn?

Mr. Hulme said it's existing and the restaurant is a permitted Use in the HC Zone; and a bar as part of the restaurant is permitted.

Mr. Piering remembered talked about the outside bar.

Mr. Pasca said the one number is the outdoor deck that's increasing, and that includes a bar and deck and terrace and deck and deck and that has to be part of the analysis.

Ms. Davis said okay.

Mr. Piering said they are still working on that. He asked if there were any other questions or comments, there were no more 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)** to September 16, 2021; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

4. 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.

Hugh Merle, Esq., submitted a written request to withdraw the application of Egret Dune Corporation 95 Dune Road without prejudice.

Motion was made by Mr. Piering to remove the application of **Egret Dune Corporation, 95 Dune Road (905-21-4-2)** without prejudice; seconded by Ms. Cea; and unanimously carried 5 ayes, 0 nays, 0 absent.

5. All Sunset Lawn LLC, 25 Sunset Lane (005-04-018.02) Applicant requests variances from §197-1 for a proposed tennis court which represents an accessory structure/use on a lot without a principal single-family use where an accessory use must be located on the same lot as the principal use, and from §197-35 C for proposed tennis court setback of 11.6 feet where the minimum setback required is 15 feet.

James N. Hulme, Esq., said there are two front yards, so they'd need a variance for that and under that at 15 Sunset Lane you granted a variance for a swimming pool and it would need a variance, but you have granted that. If it was one lot you'd consider granting that variance if needed and we're trying to maintain the value of that.

Mr. Piering asked if Mr. Pasca has seen the Covenants.

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Mr. Pasca said yes, and the concept is similar to the sign and by covenant you tie the two together, through common ownership of the LLC's so it's defacto owned by the same people and there's a legal formality that they stay single and separate there are two separate LLC's, but through the covenants there's one lot. It's helpful in the Village, if it's sold you need an updated CO so that creates the mechanism for having the Building Department review it to make sure nothing happens without anyone finding out. You can deed over property, and no one will know but because there is a requirement for the Updated CO it makes a mechanism that this would get flushed out then.

Mr. Hulme said he believes, and if he did not on some annual basis my clients will prove their ownership and if they fail to do so then the variance will be voided.

Mr. Piering asked if the Board is comfortable closing it.

Mr. Pasca said he has no issues with the C&R's and I would guess no one will comment on them.

Mr. Musnicki said he may.

Mr. Pasca said the condition that comes out of the decision is that the C&R's have to be approved by the Village Attorney so we have time to work out the language on them and certainly between now and the decision you would have a chance to review and comment on it. For example, if you want something in the decision stating a special condition, we have a month to work that out. I just don't see anything new that would prevent us from closing it.

Mr. Musnicki said that's fine.

Motion was made by Mr. Piering to close the public hearing of **All Sunset Lawn LLC, 25 Sunset Lane (005-04-018.02)** seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

6. Jamandaly LLC, 33 Beach Lane (905-011-03-019) Applicant requests variances from §197-6 D for proposed side yard setbacks of 11.8 & 14 feet where the minimum required is 30 feet, and also from §197-6 D for a proposed combined side yard setback of 25.8 feet where the minimum required is 70 feet.

No one appeared on behalf of the application. Heather A. Wright, Esq., submitted a request to hold the application over to September 16, 2021.

Motion was made by Mr. Piering to holdover the application of **Jamandaly, LLC., 33 Beach Lane (905-11-3-19)** to September 16, 2021; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS

7. Lavelle Irrevocable Trust, 16 Woodland Avenue (905-012-02-018) Applicant requests variance from §197-7 D to construct an addition with a side yard setback of 14.9 feet where the minimum required is 20 feet.

Heather A. Wright, Esq., appeared on behalf of the application, together with Mr. and Mrs. LaVaele. Ms. Wright said it's an undersized lot, and improved with a one- and one-half story house and garage, and we are looking to renovate the Southerly side of the house to have the existing first floor bedrooms converted to a den and have a larger first floor master bedroom and a smaller bedroom upstairs.

Mr. Piering said it's a very modest addition, and you're not increasing any setbacks, and you have plenty of room in the back and using the existing footprint and renovating the area.

Ms. Wright said there will be no impact on the neighbor. And it's a large driveway with no impact and there's a fence and trees in between and it's a nice addition that will square the back off and make it more symmetrical.

Mr. Piering said it's a very reasonable application, and there are no questions or comments.

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Motion was made by Mr. Piering to adjourn the hearing of **Lavelle Irrevocable Trust, 16 Woodland Avenue (905-12-2-18)** for a decision; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

8. Warren & Linda Friedman, 511 Dune Road (905-016-02-009) Applicant requests variances from §197-8 D to reconstruct a fire-damaged dwelling with a proposed front yard setback of 50.3 feet where the minimum required is 75 feet, and also from §197-8 D for proposed side yard setbacks of 11.8 & 11.3 feet where the minimum required is 20 feet, with a proposed combined side yard setback of 23.1 feet where the minimum required is 50 feet, from §197-35 C for a proposed accessory deck setback of 11.8 feet where the minimum required is 20 feet and also from §197-35 C for a proposed accessory pool setback of 11.3 feet where the minimum required is 20 feet.

Nicholas A. Vero, Esq., appeared on behalf of the application. We are seeking to reconstruct an existing two-story house damaged by fire 8 or 9 months ago, we asked permission to demolish the house so there isn't an eyesore on the site all summer long. The neighbor to the East appreciated it. They purchased the house not too long ago and the house was 2,500 square and we're proposing 3,200 square feet and we're not increasing that setback in the front, the 50' that I'm asking for is to the entry stair because of the house elevation, and it's to the landing of the stair. We're asking to construct the house on the existing non-conforming side yard setbacks which are 11.8' on the West and 11.3' on the East and maintain our 75' setback from the top of the dune, and we're in the BOH for a new sanitary system which is the new IA system.

Mr. Musnicki said I don't see that on here.

Mr. Vero said it has to be revised they submitted to the BOH before they drew this up but it is a mandate by the BOH and we're asking to drive over it so we have to record C&R's. We're asking to build a pool, and I think it was previously built with no permit. We're seeking a 10' x 20' swimming pool and because of the setbacks we need a variance for the decks and pool. He provided the Board with aerial photographs depicting the neighborhood and the front yard setbacks in the area which they will be in line with and we're not getting closer to Dune Road than what currently exists. As to the existing property it is 50' wide and non-conforming and the house was 27' wide and that will remain. There was a variance at 445 Dune Road and we pushed it back and maintained setbacks and we did step the house back, there was a variance from Mr. Hulme. The nature of these properties in this area although we're not in Pond Point they are narrow and average 50' to 60' wide. Basically, we are not looking to deviate from the Character of the Neighborhood, we're surrounded by two story houses and as far as the hardship goes, my client did not burn the house down it was purchased with the idea of reconstructing it and he knew he needed variances because we deemed it to be damaged. The benefit is that they could have left the property as is after fire and we are cleaning it up. They moved here from Southampton and they are reconstructing the house.

Mr. Musnicki asked if there's a CO for what was there?

Mr. Vero said they did get an Updated CO and if they didn't submit it he will get that to the Board. It was a two story house, and I don't recall seeing a CO for the hot tub.

Ms. Mackie read off the CO's listed on the property.

Mr. Vero said he told his client that they'd have to remove the hot tub.

Mr. piering asked if they need a variance from the Crest of the Dune?

Mr. Vero said no.

Mr. Pasca asked who determined the Dune crest?

Mr. Vero said he believes it was done by First Coastal, and the survey did not show the crest of the dune. Aram flagged it and John Minto surveyor did. He asked Mr. Hammond if he inspected it?

Mr. Hammond said no.

Mr. Pasca said he'd like that 75' dune crest setback verified on the survey.

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Mr. Hammond said we have a two dune system and when I looked at the aerials I thought it was a reasonable number.

Mr. Pasca said the Deed shows the property going to the ocean and the dimensions are correct, and it goes to the ocean and I would hate to short change the clients from owning the beach.

Mr. Piering asked where the coastal erosion line is?

Mr. Vero said it's not on the survey, but its on the site plan. It goes through the front deck and that came up and there's a letter and Mr. Minto was supposed to show it. It's 60' off of Dune Road in that whole area.

Mr. Musnicki said the reconstruction term is used loosely, is it new construction?

Mr. Vero said its constructing a new house.

Mr. Musnicki asked about the foundation and the pilings.

Mr. Vero said the damaged piles will come out and be replaced, but the girders were in great shape, and I only have to add four piles to the front of the house.

Mr. Musnicki said because of the front yard setback you've removed decking and increased the living space on the first floor, so how did you achieve that?

Mr. Vero said there was a 10 x 15 on the front of the house and we went to that setback so its still a setback and we went right to that. We took the deck down and new piles for a second story.

Mr. Musnicki asked if that older deck is considered a walk way?

Mr. Vero said it's a deck with an iverhang on it. They probably used it for the Sunset to look out to the North West.

Mr. Musnicki said okay.

Mr. Piering asked if they need a Coastal Erosion variance.

Mr. Pasca asked if it was advertised for that?

Mr. Vero said no.

Mr. Piering asked Mr. Pasca if they have to re-advertise for that?

Mr. Pasca said yes, we have to deal with that.

Mr. Vero said yes, I need a costal erosion variance.

Mr. Piering said the coastal erosion line wasn't on the survey and it needs a variance.

Mr. Pasca said normally we would, and that's not the applicants fault. Was there a letter in opposition to this?

MR. Vero said yes.

Mr. Pasca said then yes, we have to readvertise it.

Mr. Vero thought it was a question.

Mr. Pasca said then that will give you time to get the line marked on the survey.

Mr. Vero said he will submit the new survey and asked if they have to readvertise for coastal erosion.

Mr. Piering said we can close it and advertise it.

Mr. Pasca said advertise it and not close the hearing, and you can close it simultaneously next month and do a decision.

Mr. Musnicki said where we went from 48' to 60' and it's because of what?

Mr. Vero looked at the site plan with Mr. Musnicki and showed him the area he's pushing out and the dimension.

Mr. Pasca said he needs to havet eh survey updated.

Mr. Vero said okay he will.

Motion was made by Mr. Piering to holdover the application of **Warren & Linda Friedman, 511 Dune Road (905-16-2-9)** to September 16, 2021; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

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9. WHB Development Partners LLC, 107 Old Riverhead Road (905-002-01-019.05)

Applicant requests variances from §197-1 to construct a proposed automotive service station accessory convenience store building of 4,872 square feet in gross floor area where the maximum permitted is 3,000 square feet, and from §197-17.1 for a proposed rear yard setback of 30 feet where the minimum required is 50 feet.

James N. Hulme, Esq., appeared on behalf of the application, together with Irwin Krasnow and Robin, and Zachary Chaplin, Stonefield Engineering.

Mr. Pasca said SEQRA has to be addressed so it can't be closed.

Mr. Hulme said this involves a vacant parcel on Old Riverhead Road and the possibility of doing this became a reality as a result of the Trustees changing the definition of automotive service station, which was done in November 2019; and passed with tremendous input from my client and the Trustees are eager to see this project happen and at that time they were not sure of the size of the store and that's where the limit in the definition came from. We have a 70,000 square foot lot almost twice as large as the area requirement in the B3 Zoning District and we're proposing 16 pump gas station, and a 4,872 square foot convenience store and will be a 7-11 which drove the size and that's the store they want to construct now, the size, shape and contents. The property is so large that it would fit easily even though it exceeds the defined limit. Before you get to the limit, it talks about 350 square feet of store per pump and with 16 pumps the store COULD be 5,000 square feet. The other variance is the rear property line setback which is 30' instead of 50'. The B3 is a small zone and this is a unique configuration of property's with the railroad to the North, the highway facility to the East, the storage facility behind us and a VFW to the South and even though the store is larger than permitted by definition the impact is unique and small. As to the setback this has been engineered for the pimps and the truck can get in and out and been vetted through the County DPW and an earlier version had entrance and exit on to Old Riverhead Road and based on the County's request one entrance is off of the access of the facility behind us so there's only one curb cut and the railroad is not opposed to the construction and the railroad station so close people can use this to relieve traffic on Depot Road and future plan may involve more formal connection between the site and railroad.

Mr. Chaplin said this is a modern convenience store layout, and because we have such a large parcel we have oversized drive aisles, and plenty of parking there's good maneuverability and the deliveries are set by 7-11 and there's a nice landscaping buffer with 20' to 30' to landscape well and it's also a new prototype by 7-11. There's more offering, more fresh food, more things to purchase and everything looks newer and more clean.

Mr. Piering asked if there's sit down dining.

Mr. Krasnow said there's a luncheonette area with 7 seats, along the front and there's 7 seats along the windows they can eat their food and leave.

Mr. Hulme said since it's the B3 a minimum requirement per use is 10,000 square feet so we could do this with a 3,000 square foot building and another 1500 square foot building next to it. There could be six uses on it and with the lot coverage and setbacks we wouldn't need variances.

Mr. Musnicki said you'd need a strong argument to get 5,000 square foot building when 3,000 is allowed. Part of the argument is multiple uses in that building

Mr. Krasnow said we have the break out and the store is about 2,800 square feet, the rest is storage, bathrooms etc.

Mr. Pasca said what happened was the argument was made that they did not need a variance, but that doesn't mean that information isn't relative, it needs a variance but may be relevant to their decision and it's justifiable.

Mr. Hulme said they will get that to the Board.

Mr. Musnicki said the 3,000 square foot limit was arrived at years ago, and the reasoning was in the B2 and B3 Zoning District there shouldn't be markets to compete with B1 in the Village and that was the thinking and times have changed, but that's where it stood but that's not to say that I would be opening to listening to more square footage if you spelled out the uses in the footage.

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The storage room isn't a use and it would have to be a use, dining, luncheonette, convenience store whatever you call it.

MR. Hulme said they will provide that.

Mr. Musnicki said that 30' buffer in the rear can be eliminated by taking that store and putting it in the front. You can bring it within 50' of the front property line that gives the visual and then you have the gas pumps in the back. I don't think people want to enter the Village and seeing 16 gas pumps.

Mr. Chaplin said they do a lot of 7-11s and that question comes up with a lot, they want the visibility for pumps and functionality especially on this site it's all perpendicular and to flip it and go around they want to see the gas when they're driving and if they don't see them they don't know its there and for these types of sites you want the pumps in the front.

Mr. Hulme said they won't be naked, there will be a nice canopy and it won't look bad. At some point we will share that with this Board.

Mr. Chaplin said they are up against the storage building and there's no impact to it. There is plenty of buffer and we will landscape the perimeter and it's the best layout for the flow and it's very standard in this industry.

Mr. Krasnow said behind the building, there are garage doors and a driveway area so we're buffering and hiding their fence and drive in doors and egress for driving around the building so their operation isn't affected and they are familiar with the site plan and we purchased it from the to do this and they don't have an issue with the setback variance being granted.

Mr. Badzik asked about a street sign and sign.

Mr. Chaplin said at this stage, there's no signage package.

Mr. Hammond said the Metro Storage sign is located on this parcel and they got a variance for that off parcel. If their sign will be separate that's a separate variance, and Metro has one ground sign and if you need a separate sign that's a separate variance.

Mr. Hulme said we will look into that.

Mr. Krasnow said they would need a monument sign further North.

Mr. Chaplin said they have not released that package yet from 7-11.

Mr. Hammond said gas stations need variances for signage.

Mr. Pasca said there are a lot of signs, way too many and they have to look into the Code.

Mr. Krasnow said they released the new version of the store and role that out as a new model. They didn't receive the plans from 7-11 and they only have it from corporate.

Mr. Pasca said there are a lot of signs that won't go over well with the Planning Board.

Mr. Chaplin said they are flexible in a lot, but flipping the pumps and buildings will not be okay.

Mr. Hulme said okay.

Mr. Pasca said the Board of Trustees will also review this.

Mr. Hulme thought they referred it to the Planning Board, they are very enthusiastic about this project.

Motion was made by Mr. Piering to holdover the application of **WHB Development, Partners, LLC., 107 Old Riverhead Road (905-2-1-19.5)** to September 16, 2021; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

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