

October 21, 2021

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, October 21, 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 September 16, 2021, meeting as written; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

DECISION

1. Warren & Linda Friedman, 511 Dune Road (905-016-02-009) Applicant requests variances from §74-5 C(2) to construct a nonmovable building within the structural hazard area where prohibited, 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.

VILLAGE OF WESTHAMPTON BEACH
ZONING BOARD OF APPEALS

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

Warren Friedman
Linda Friedman

DETERMINATION

Address: 511 Dune Road
SCTM #: 905-16-2-9

-----X

I. REQUEST FOR RELIEF

The applicants, Warren Friedman and Linda Friedman, are the owners of a parcel of real property located at 511 Dune Road. The property is located wholly within the R-3 Zoning District. According to the existing conditions survey of the property drawn by JM Land Surveying, dated March 24, 2021 and last revised April 12, 2021, the parcel is improved by a two-story frame residence, deck, hot tub and wood walkway.

The applicant seeks to reconstruct the pre-existing structures and is proposing a new two-story house on piles (with four bedrooms and 3,096 sf), covered deck, open deck, and pool, all as depicted on the site plan prepared by Nicholas A. Vero, Architect, PC, dated June 29, 2021.

October 21, 2021

Section 74-5.C(2) of the Village Code provides that, within the structural hazard area of the Coastal Erosion Hazard Area, the construction of nonmovable structures or placement of major nonmovable additions to an existing structure is prohibited.

Section 197-8.D of the Village Code provides that, in the R-3 Zoning District, the front yard depth shall not be less than 75 feet on the South side of Dune Road; there shall be two side yards totaling not less than 50 feet, neither of which shall be less than 20 feet; and the rear yard shall not be less than 75 feet.

Section 197-35.C of the Village Code provides that, in the R-3 Zoning District, on lots lying on the South side of Dune Road, accessory buildings, structures, tennis courts and swimming pools cannot be located closer than 75 feet from the Crest of the Dune and 20 feet from a side or front boundary line.

Applicant therefore requests variances

- from §74-5.C(2) to construct a nonmovable building within the structural hazard area where prohibited,
- 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,
- 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
- from §197-35.C for a proposed accessory pool setback of 11.3 feet where the minimum required is 20 feet.

II. SEQRA

The applicant submitted an Environmental Assessment Form Part I pursuant to the State Environmental Quality Review Act (SEQRA).

Since this is a request for an area variance for a single-family residence and an accessory residential structures, the application is classified as a Type II action under 6 NYCRR § 617.5(c)(11), (12), (16) and (17). Accordingly, the application is not subject to further review under SEQRA.

III. ZBA PROCEEDINGS

October 21, 2021

This application for relief under Chapter 197 was originally noticed for a public hearing, which was opened on August 19, 2021. The applicant's architect, Nicholas A. Vero, appeared and presented the application. Jay Glucksman, 515 Dune Road, Westhampton Beach submitted a letter in opposition to the application. The application was renoticed to include the additional requested relief under Chapter 74, and the public hearing thereon was opened on September 16, 2021. The hearing was closed 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, and the Board is empowered to impose reasonable conditions to minimize any adverse impacts from the variance.

Finally, the Zoning Board is empowered to grant coastal erosion variances from Chapter 74 where the strict application of the standards of such chapter may cause practical difficulty or unnecessary hardship and the applicant has met the specific requirements of Section 74-13(A)(1) of the Village Code. The more general practical difficulty/unnecessary hardship standards were, in the context of zoning codes, replaced by the more detailed five-factor balancing test described above. While there can be distinctions between the zoning standards and the practical difficulty standards governing coastal erosion variances, in this case, the relevant considerations for a coastal erosion variance overlap and are concurrent with the relevant considerations for a zoning variance. The various variances will therefore be considered together.

V. FINDINGS AND CONCLUSIONS

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

October 21, 2021

1. *Character of the Neighborhood:* The applicant has demonstrated that the relief requested will not have an adverse impact on the character of the neighborhood or coastal erosion area. The proposed house is modestly sized and generally consistent with the character of other homes on comparable narrow parcels on the south side of Dune Road in the R-3 district. Although the pre-existing accessory structures included a hot tub, shower and deck that did not fully conform to the dune crest setback, all new structures have been designed to achieve a conforming 75-foot dune crest setback. The proposed side yard setbacks of 11.8' and 11.3', albeit nonconforming, are identical to the pre-existing side yard setbacks and are generally consistent with relief granted to other narrow lots of this size (which is only approximately 50 feet wide).

2. *Alternatives:* The applicant has demonstrated that there are no alternatives to achieve the benefit sought without the need for variance relief.

3. *Substantiality:* The requested side yard relief is substantial. The Board notes, however, that the pre-existing nonconformities are equally and, in some respects, more substantial.

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

5. *Self-Created Difficulty:* The difficulty is self-created.

6. *Benefit vs. Detriment:* The Board finds that the benefits to the applicant outweigh the detriment to the neighborhood.

7. *Minimum Variance:* The variances are the minimum necessary to achieve the benefit sought.

The Zoning Board therefore grants the requested area variances to reconstruct a fire damaged dwelling as shown on the site plan prepared by Nicholas A. Vero, Architect, PC, dated June 29, 2021, subject to the following conditions to minimize any adverse impacts from the variance:

VI. CONDITIONS

1. The variances granted herein are limited to the relief set forth in this decision, and pertain only to the structures as they are depicted on the Final Plans, and shall not be construed as creating conforming dimensions. There shall be no further extension (horizontally or vertically), increase, alteration or modification to the structures located on the property that has non-conforming dimensions, without further approval of the Board.

October 21, 2021

2. No outdoor accessory structures or equipment (including but not limited to air conditioning condensers, HVAC equipment, above-ground utilities, generators, pool equipment, solar panels, garbage/storage bins, etc.) may be located within a required front, side, or rear yard, except as depicted on the approved plans, without further approval of the Board.

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.

4. The variances granted herein shall terminate unless a building permit is issued within one year from the date hereof and construction completed according to said building permit.

Dated: October 21, 2021

Village of Westhampton Beach
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination of **Warren and Linda Friedman, 511 Dune Road (905-16-2-9)** as written; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

HOLDOVERS:

2. 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 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. There have been a few meetings, and much of the relief turns on the Board's thoughts on whether they have complied with the reconstruction of a non-conforming use and they submitted a GFA comparison of the existing and the proposed. And there was a small increase from the old to the new in the chart we submitted and based on the comments we went back and studied it more carefully and it got larger which was not the result we hoped for but something that's been under the surface and part of the proposal is a restaurant which is a permitted use in the zone and when the code talks about the increase in floor area it's the floor area in the non-conforming use so what I presented is a reanalysis and removing the restaurant which is permitted and not dedicated to the non-conforming use and when we do that there's a small increase but it's 41 square feet and we can reduce a closet if we needed to. I wanted to address it in that fashion and get feedback on that concept and this is something the building inspector and I have discussed and it seems to make sense to us both, the restaurant use space is getting bigger and that's how we got rid of the increase. We are increasing the deck space on the first floor and the second floor and the code talks about an increase in floor area and that's not defined in the Code, the only reference that I can find has to do with GFA and we've used the terms interchangeably and it's defined wall to wall in the Code so the extent that these patio spaces are outside the walls of the building I suggest, they do not count and should not count in the comparison of the pre to post GFA. They may count for other purposes and you may think of the non-conformity increase, but again we're going from a larger number of units to smaller, and they may come with the accessory patio or balcony doesn't increase the impact of the overall site.

Mr. Piering said this is the first time he's seeing the GFA chart. So, part of the questions we raised was the increase in the outside deck area.

Mr. Hulme said yes, it's not something that's counted in this section of the Code because it talks about floor area dedicated to the non-conforming use and the way we're talking about is the space between the walls and the balconies and patios are outside of the walls and they may impact the existence and the increase in square footage, but this seemed to be an important one and it does not count against us.

October 21, 2021

Mr. Piering said okay. Where are you with the Planning Board?

Mr. Hulme said we have SEQRA, but they told us to come back when they finished with the Planning Board. They are at the point where the plan is acceptable to them but we need these variances before they can act any further.

Mr. Piering said okay.

Mr. Musnicki said it's an interesting concept removing the restaurant.

Mr. Pasca asked if the restaurant is accessory or stand alone?

Mr. Hulme said he doesn't know if it makes a difference.

Mr. Pasca said if its accessory to the non-conforming use it may.

Mr. Hulme said we don't want a public restaurant; we want one that serves the hotel guests. If we go to a publicly available restaurant, and you decide its accessory it gets added in to the GFA and then if we decide we want a public restaurant it's no longer accessory it's a restaurant open to the public and doesn't count in the GFA and we thought about that argument but we don't want a restaurant because of the parking and neighbor impacts so we want to limit the impact of the restaurant on the neighborhood but if that's the direction it's a better argument for us. We want to say we'd like to but as a condition we can't.

Mr. Pasca said his question is, you applied for a variance from 197-29.C. and we disagree about area variance or use variance, I am wondering if you'd be willing to make an argument for a use variance considering that it's an unusual use and the board will consider the GFA chart but maybe you can articulate that argument and we don't have a lot of use variances so there are some that you can look at and consider the factors there.

Mr. Piering said the reality is that you'd like the restaurant for the Inn but to get it approved it can be a public restaurant.

Mr. Hulme said yes, and we could go to the Planning Board and they could say we don't want it a public restaurant. There's a path forward and a use variance may be helpful.

Mr. Pasca said that may be a way to articulate the use variance, there may be a benefit to the community and the applicant

Mr. Piering asked Mr. Hammond if he had any questions.

Guy and Cindy Davis, 1 Beach Lane. They live next to this property and Mrs. Davis said their main issue is the increase in square footage and to jump in size for a non-conforming use and why you're tearing down the cottage which is a single-family residence and the rooms in the Inn are part of the Inn so the use is intensifying and expanding.

Mr. Davis aid there are residences on both sides of the Inn and we want to see it rebuilt but we want you to consider the neighbors impact, now we're talking restaurant will there be a bar, serving alcohol and it's something we are discussing. If there's going to be balconies on the floors will the neighbors have balconies looking into their yards. It's in a residential neighborhood and it's a concern. We'd like the Board to consider the neighborhood impact.

Mr. Musnicki said on the square footage, it's over 7,000 square feet.

Mr. Davis said they are increasing it by 2,000 square feet to 9,200 square feet. It's big in size, its big as it is and they are adding more to a preexisting non-conforming use and to allow it to get bigger and have all these balconies.

Mr. Hulme aid the patios are on the ground level and there are none on your side and there's one on the third floor and the building is three stories.

Mr. Musnicki asked if they have looked through the file.

October 21, 2021

Mr. Piering said you can look at the building department file.

Mr. Hulme said they can go to his office as well.

Mr. Piering that's a good way to start by looking at the plans, we aren't closing it tonight so you don't have to worry and you can look through the file and you can come back if you have more comments.

Mr. Musnicki said they have been very receptive to the neighbors; I suggest you take advantage.

Mr. Davis said okay.

Motion was made by Mr. Piering to holdover the application of **WHBH Real Estate, LLC., 7 Beach Lane (905-11-3-10)** to November 18, 2021; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

3. 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.

Heather Wright, Esq., appeared on behalf of the application. She thanked the Board for taking her out of order and appreciates the courtesy. They are back from last month's adjournment and she read the submission from Richard T. Haefeli, Esq., and she doesn't think it changes anything. There is a vacant lot and they're proposing a single-family dwelling and at the Board's suggestion, they increased the setbacks to be more proportionate with the lot width. The northerly side yard setback of 19' and 16.8' on the Southerly side yard. They are proposing what meets the elements to grant the variances. The home is modest for new construction in this Village and proportionate for this lot size and width and it's well under the 20% lot coverage, and if you look up and down Beach Lane and Library Avenue there are a majority of homes with the narrow lots. 13 Beach Lane and 15 Beach Lane have similar setbacks and the layouts are similar to our proposal so it's our position that the character of the neighborhood is met. There is no negative environmental impact and while the variances may be substantial, I want to remind the Board we're removing a preexisting non-conforming garage located on the property line and you can see it's very close to the property line and it's being removed as part of the proposed construction. The fence is the neighbor's line.

Mr. Badzik asked if there's an apartment above it?

Ms. Wright said no. And they would be pleased its being removed because you can see the pool of the neighbors that's under construction. Feasibility and hardship we can take together, the lot size is unbuildable and the lot width is not conforming and if we comply with the zoning regulations, we would have a house that's only 18' wide. This lot is constrained and a variance is required to build on this lot. I ask the Board grant the variances we requested, we heard what you said at the last two meetings.

Mr. Musnicki asked about the proposed side yards?

Ms. Wright said to the North they are 19' and the South is 16.8'.

Mr. Musnicki said okay; you mention properties on Beach Lane that are examples with similar side yards, do you have anything to show us variances that they received or how they came about?

Ms. Wright said 13 Beach Lane received a variance for their setbacks; and 15 Beach Lane did get variances but not for the side yards they existed.

Mr. Musnicki asked if she has anything to show that?

Ms. Wright to show the variances? I have a copy of the decision and I am happy to submit that decision that was issued by this Board.

October 21, 2021

Mr. Musnicki said yes, that's what I'm asking. Supporting documents are helpful.

Ms. Wright said okay, I will submit the decisions for them and I will submit additional copies after the hearing.

Mr. Musnicki said when he read Mr. Haefeli's argument, and what I got was that this property would support a smaller house with larger side yards than what you're proposing. Now, and I still feel that way would you go further and give larger side yards?

Ms. Wright said what we're proposing is in keeping with the character of the neighborhood; our setbacks are proportionate for a lot that's 88' wide. We are not willing to increase them than what we have.

Mr. Musnicki said the two areas you're against the R-1 is the top zone in the Village and it's not a place to have narrow side yards and you can put a smaller house on this property.

Ms. Wright said if you reorient the house, yes. And it's not in keeping with the CON to reorient it to East West orientation and I think it makes more sense to have the North South orientation. If you went to the lot and stood on the lot a house constructed East West has a railroad appearance and looks right into their windows and pool and it makes no sense.

Mr. Musnicki said there's 88' and you need to work with what you have.

Ms. Wright said at 13 Beach Lane they have a North South orientation and worked with the setbacks.

Mr. Piering said we want to grant the minimum variances necessary, that's the purpose that's what brings us back here when we discussed reducing it. I don't think there's an argument that this is substantial and it can be reoriented and whether its what the applicant wants or not, but you can reorient it and build a house in an alternative manner.

Ms. Wright said it will still require a variance, and you need to look at the five part test and the minimum required to achieve the goal is one element; CON is another and I think that it's the most important element.

Mr. Piering said one thing they would consider; did you look at the screening that the Northerly house has on the Northerly side. They have done an outstanding screening job. Would you be willing to do that?

Ms. Wright said we discussed that, and the neighbor to the North is the one objecting to this applicant. You could not see the home that existed and then the neighbor started construction, removed the screening and you can see the difference now so for the last year and a half my clients have lived with the fact that all of the trees have been removed and there's no screening. They are asking for my clients to screen the property and I think, quite frankly they either don't want a house or they want us to replant trees when they did construction at our cost. There was beautiful screening there before the Northern neighbors began construction.

Mr. Piering asked if her client would do more screening?

Ms. Wright said we'd like the neighbor to put the trees back up that they took down.

Mr. Musnicki said before you get in too deep think about how substantial this is, and can it be achieved by other means and is it self created? Think about those three factors.

Ms. Wright said she understands.

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

Richard T. Haefeli, Esq., appeared on behalf of the Northern neighbor. He assumes this Board received his memo and he will emphasize there was a house and until the Code was updated to 1 acre it complied with the setbacks and they can have a substantially greater side yard and reorient the house and its up to you to decide whether they are entitled to their variances, or build one with an East West variance. On the screening, I don't know what my client did, but they

October 21, 2021

constructed a house as they were entitled to. This lot is 88' wide and they want to put a driveway in and a garage to go along my client's property and if you require screening along that side on the Northern side yard and that's a condition you can put in. You should give the smallest variance, and they can put a house up with greater side yard setbacks and less variances.

Mr. Piering said he had no questions for Mr. Haefeli.

Ms. Wright said her client was present and would like to address the Board.

Lisa Kriegel, 33 Beach Lane. When we drove up to the house the first time that the hedges were removed, as you can imagine we were flabbergasted and we were not happy, but thus far while we've lived in the house there has been privacy and I couldn't tell you what the house that was demolished looked like because I never saw it. We didn't say anything we wanted to be good neighbors, I thought the trees were on our property and I learned they must not have been because it was removed during construction and it was never our intent to have that kind of destruction and it happened so the point I want to make is that our desire is to be good neighbors and the idea of a really narrow house is like a bowling alley and what we're proposing is best for our house and our family and I don't know that visually it will be as esthetic to the eye to see our house which will look into the neighbor's property would be any better. I hope we can resolve this and have a nice relationship with our neighbor and have a home that accommodates our family's needs.

Mr. Piering asked Ms. Wright if she had anything else.

Ms. Wright said no.

Mr. Badzik said he'd like to read the two (2) decisions for 13 Beach Lane and 15 Beach Lane.

Ms. Cea agreed.

Mr. Piering asked Mr. Pasca if he had any comments.

Mr. Pasca said if you're going to close it because you received the decisions, but you should leave it open to get the surveys to go with the decisions. It will make it easier to see what the decisions refer to.

Mr. Piering said maybe we will sit on it then.

Mr. Badzik agreed with Mr. Piering.

Ms. Wright said one more point, I can submit the plans for the house too so you can see them and see what they are proposing.

Mr. Badzik said okay.

Mr. Pasca asked if they've changed.

Ms. Wright said she has a set.

Mr. Piering said we'd like to hold it over.

Mr. Haefeli confirmed its being held over for all purposes and they can comment at the next meeting.

Mr. Piering said yes.

Motion was made by Mr. Piering to holdover the application of **Jamandaly, LLC., 33 Beach Lane (905-11-3-19)** to November 18, 2021; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

4. 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

October 21, 2021

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. Mr. Hulme requested a holdover of the application to November 18, 2021.

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 November 18, 2021; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS

4. Keith & Ellen Fell, 12 Bayfield Court (905-010-04-036.05) Applicant requests variances from §197-1 for a proposed partial conversion of detached garage into cabana with plumbing facilities totaling 1,243 square feet where the maximum accessory structure permitted with plumbing is 200 square feet.

Nicholas A. Vero, Architect appeared on behalf of the application. They are looking to convert a garage on the house and it was set up to turn some of it in to a cabana, and this is a creation of people home due to COVID and working from home. They are looking to convert the 2-car garage with an unfished loft with a garage, storage, cabana, bathroom and second floor loft and expanded that by 200 square feet. Increasing the non-conforming with the structure. The loft addition is 68 square feet and the total is 1,243 square feet and it's a multipurpose building which is not permitted without a variance and we meet all of the setbacks for the structure and we believe it does conform.

Mr. Musnicki asked him to go through the standards, it's certainly substantial.

Mr. Vero said without that much knowledge of this project I'd rather not go through the standards. We can have a separate 200 square foot cabana and we can't have finished space with a bathroom over 200 square feet and I think it's just a combination of uses in one building one roof that already exists. It won't adversely affect the neighborhood because its already there. With reference to the hardship, there's no other place to put this building because it exists and we can leave it as a garage with a loft space and build a separate cabana.

Mrs. Fell said it will never be used as a rental, we have a large family and we'd like our one daughter who is working from home to have the space, and it's a little extra and storage and we talked about finishing the loft and when my kids were teenagers, we left it and now they are older and we'd like to finish the space.

Mr. Piering said in the past we've kept them separate and we have a history of that.

Mr. Vero said that's correct and my only involvement is one on Library Avenue and we knocked down an existing structure with a separate CO for a cottage and pool house and there were conditions that were made and filed in the County that you can't use it as a rental. There were two bedrooms and we replaced in like in kind.

Mr. Wittschen said he remembers that application.

Mr. Vero said that's the only one he can think of that's similar. There's one from years ago on Oneck Lane that was the Kenny residence and that condition was no plumbing allowed, it was an existing garage with a loft above and there was no plumbing permitted.

Mr. Piering said once there's plumbing and you make it bigger it is different.

Mr. Vero said he doesn't want to close the hearing, he would rather do homework and come up with suggestions.

Mr. Piering said you have been working with this Board long enough to know what we're looking for. I think we will hold this one over too. But we have in the years I've been doing this, that there are bath houses with bedrooms and televisions.

Mr. Vero said the dilemma is sleeping quarters.

Mr. Piering said that's why the limitation is 200 square feet so it doesn't turn in to living quarters.

October 21, 2021

Ms. Fell said okay.

Motion was made by Mr. Piering to holdover the application of **Keith & Ellen Fell, 12 Bayfield Court (905-10-4-36.5)**; seconded by Ms. Cea; unanimously carried 5 ayes, 0 nays, 0 absent.

6. **Egret Dune Corporation, 95 Dune Road (905-021-04-002)** Applicant requests variances from §197-8 D for proposed side yard setbacks of 6 & 10 feet where the minimum required is 20 feet with a proposed combined side yard setback of 16 feet where the minimum required is 50 feet, from §197-35 C for proposed accessory deck with setbacks of 6 & 10 feet where the minimum required is 20 feet, and also from §197-35 C for proposed accessory pool with setbacks of 10 feet where the minimum required is 20 feet.

Nicholas A. Vero Architect appeared on behalf of the application. They withdrew the last application, and we reapplied for mor relief and my clients have sat down with their attorney Hugh Merle and I wanted to present the application and Mr. Merle has to make his presentation to discuss the aspect of the single and separate. I will ask for an adjournment for Mr. Merle to present at the next meeting.

Mr. Piering said so you're not ready to move forward? Does anyone have questions?

Mr. Pasca said I might. The last time we started talking about title questions and we asked for information and you provided some, and now there's a new application and no title so I'm going to repeat the same question, we want argument and proof that this was intended to be a building lot not an access strip.

Mr. Vero said we have that information and Mr. Merle will submit that information.

Mr. Piering asked if he's familiar with Mickie's Way? In 2007 we had an application for a house on a 40' wide property in the R-4 and it was interesting, and it was a home being constructed by Habitat for Humanity and you might want to look at that. It was the R-4 and we denied that application.

Mr. Vero said he recalls that and it was on the map on a right of way or a roadway but I do recall it.

Mr. Piering said he should look at it.

Mr. Vero said he will look at it.

Suzanne Mensch, Esq., appeared on behalf of the neighbors, the Millers 93 Dune Road; they are the Easterly neighbor. I sent a letter today late in the day and we opposed the application in the first go around and its more substantial and we are happy to come back in November to hear the further presentation and her clients are very concerned about the application.

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

Motion was made by Mr. Piering to adjourn the meeting at **5:55 p.m.**; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.