

June 16, 2022

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, June 16, 2022, at 5:00 p.m. in the Municipal Building, located at 165 Mill Road, Westhampton Beach, New York.

PRESENT: Gerard Piering, Chairman
Joe Musnicki
Jim Badzik
Ellen Cea

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

Maeghan Mackie, Building Permits Examiner / Board Secretary

ASBENT: John Wittschen

DECISIONS

1. Westhampton Beach Fire District, 92 Sunset Avenue (905-012-04-006.02) Applicant requests variances from §197-30 C(9)(a) to erect a digital ground sign with a setback of 7 feet where the minimum required is 10 feet, §197-30 C(9)(c) for a proposed sign area of 31.17 square feet where the maximum permitted is 12 square feet, §197-30 D(4) for a proposed sign capable of displaying animated images where specifically prohibited, and from §197-30 D(14) for a proposed sign that is internally illuminated where also specifically prohibited.

2. Judy Madden, 64 Brook Road (905-007-02-021.01) Applicant requests variances from §197-35 C to install an accessory swimming pool with setbacks of 13.7 & 15 feet where the minimum required is 20 feet.

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

Motion was made by Mr. Piering to adopt the determination of **Judy Madden, 64 Brook Road (905-7-2-21.1)** as written; seconded by Ms. Cea and unanimously carried 4 ayes, 0 nays, 1 absent.

3. 17 Dune Road LLC, 17 Dune Road (905-022-02-021) Applicant requests variances from §74-5 C(2) for a proposed dwelling within the Coastal Erosion Hazard Area where construction of non movable structures are prohibited, from §197-8 D for a proposed front yard setback of 57 feet where minimum required is 75 feet, also from §197-8 D for a proposed combined side yard setback of 45 feet where the minimum required is 50 feet, from §197-35 C for a proposed accessory deck setback to the crest of dune of 59 feet where the minimum required is 75 feet, and also from §197-35 C for a proposed accessory pool setback to the crest of dune of 60 feet where the minimum required is 75 feet.

4. Steven & Leslie Socol, 5 Michaels Way (905-009-03-017.18) Applicant requests variance from §197-35 A for proposed accessory structures (pool, patio, sheds & trellis) to be located in a front yard (corner & through lot) where specifically prohibited.

5. Joy Hepburn, 339 Mill Road (905-008-01-014.03) Applicant requests variance from §197-35 A for proposed accessory pool to be located in a front yard (corner lot) where specifically prohibited.

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

Motion was made by Mr. Piering to adopt the determination of **Joy Hepburn, 339 Mill Road (905-8-1-14.3)** as written; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

June 16, 2022

6. Mark & Palmira Cataliotti, 37 Beach Rd (905-012-02-039) Applicant requests variance from §197-35 C(1) to maintain an accessory residential storage shed located 0.8 & 4.3 feet from property lines where the minimum required is 10 feet.

HOLDOVERS:

7. 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.

Richard T. Hafeli, Esq., appeared and said he submitted documents to the Board today and appeared at their request.

Mr. Pasca said he did not have a chance to review anything, and this has to be held over.

Motion was made by Mr. Piering to holdover the application of **Egret Dune Corporation, 95 Dune Road (905-21-4-2)** to July 21, 2022; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

8. Bella 165 LLC, 165 Dune Road (905-020-02-024.01) Applicant requests variances from §197-8 D to construct additions resulting in a proposed building area lot coverage of 30.3% of the lot where the maximum permitted is 20%, and with a proposed front yard setback of 50.2 feet where the minimum required is 75 feet, also from §197-8 D to construct roofed-over entry with a side yard setback of 18.5 feet where the minimum required is 20 feet, with a proposed combined side yard setback of 33.6 feet where the minimum required is 50 feet, and also from §197-8 D for proposed rear square-off additions with a rear yard setback to crest of dune of 66.9 feet where the minimum required is 75 feet, from §197-29.1 as proposed additions are located within a required front yard (50.2' proposed, 75' required) and also within a required side yard (15.1' proposed, 20' required), representing a nonpermitted increase in degree of nonconformity of a building with nonconforming front and side yard setbacks, and from §197-35 C for a proposed deck extension with a setback to the side yard of 16.5 feet where 20 feet is required, and also from §197-35 C for a proposed deck extension with a setback to the crest of dune of 35.1 feet where a minimum of 75 feet is required.

Mr. Piering stated there was not a determination for this application and that it would be ready for the July 21, 2022 meeting.

9. Michael & Elizabeth Levy, 205 Dune Road (905-020-02-008) Applicant requests variances from §74-5 C for proposed major additions to the dwelling (non-movable structure) within the Coastal Erosion Hazard Area (CEHA) where specifically prohibited, from §74-8 A(8) for proposed major additions and restoration of the dwelling within the primary dune area where specifically prohibited, and from §197-29.1 A as proposed additions are located within a required rear yard (75' required from crest of dune), representing a prohibited increase in degree of nonconformity of a building with nonconforming rear yard setback.

James N. Hulme, Esq., appeared on behalf of the application, together with Bruce Nagel Architect and Mr. and Mrs. Levy. Mr. Hulme said they have bought this home in 2005 with the intent of renovating it and they are living here now full time, and they are proposing a multi part application. The home is existing and some of the improvements are going to be retained, and some will be renovated and then some additional additions to the home. Going through the chart submitted with their application, there is an existing deck and screened porch to be retained. There is a portion of the existing house shown in pink and that is the part of the existing house that will be renovated and its going to be substantially renovated, we are retaining the foundation and stud walls in that area and that will be a substantial renovation. There is shown in yellow the area of the existing home that is in a conforming location as to setbacks and two areas are identified in green which are new areas and proposed 75' from the Crest of the Dune and they are conforming in that regard. We have submitted a full set of plans, and one of the pages A203 is a rendering of what it will look like when it's complete and its done nice and compact and provides a lot of additional use of space to live in. In that packet is a site plan on page A001 and

June 16, 2022

that gives an overview of the layout and there is a modest home there now and not what I call a huge structure, but more functional and nicer to look at from the outside. On page A003 which is just a neighborhood study, and it shows all of the various style homes observed in that part of Dune Road and this will fit in nicely with the neighborhood as a whole. There are two areas of variances, and the two are under Coastal Erosion Hazard Law and the other has to do with construction within 75' of the Crest of the Dune; if we keep the porch and screened porch we'd like to keep the house connected and reuse the foundation. Allowing this variance allows us to construct in the area with reduced impact on the Dune and we would not have to dig around in that area, the property as a whole will be far less disturbed. The other part is the Coastal Erosion Hazard Area relief, the main thing is the alternative location and we are locating the new additions adjacent to the existing part of the house we're renovating so we can't build it elsewhere so there is no alternative and we will engage in mitigation and we will improve the flood safety in the area. We're not creating any new disturbed area. It seems simple, with a little relief sought.

Mr. Piering said he wants more information; I think you were vague about what you're keeping and you said it's a substantial renovation.

Mr. Hulme said Mr. Nagel is here to speak to that.

Bruce Nagel, Architect said that when they began the project they have an 1,100 square foot house and the majority of it is in the Coastal Erosion zone and fortunately they only wanted a minor addition; the truth of what they did they tried to do everything on the second floor. The house is existing and in violation of the setbacks and we added on top of that house and we also added a bit more toward the landward side, but only 600 or 700 square feet. The house was a box we added a second story and a small addition toward the landward side and they wanted the opportunity to have a swimming pool and that was placed beyond the house toward the landward side. They are going to take the house down to the existing foundation, we're adding a small amount of foundation toward the landward side and maintaining the platform frame for the first floor and adding to that and building new walls and a second floor.

Mr. Piering said you're going down to the foundation?

Mr. Nagel said yes. That's our goal, if we don't encounter rot or unforeseen things.

Mr. Piering asked what those entails, when do you find that out?

Mr. Nagel said it's the first-floor framing. We'll find out in construction and expose the conditions.

Mr. Piering said we try to move as far from the dune as possible, so saving the deck to me not a factor in considering this because the deck looks like it needs to be replaced. You'll keep the foundation and the first floor platform and you won't do any more digging and disturbing the dune, you're going to add a second floor?

Mr. Nagel said yes.

Mr. Hulme said the benefit will not disturb the dune it's all outside the 75' dune setback.

Mr. Piering said the new stuff is all up or forward.

Mr. Nagel said it is significantly in to the dune.

Mr. Piering agreed, we don't want the dune touched.

Mr. Nagel agreed.

Mr. Musnicki said this is a new house essentially, and its advertised as a renovation, but in the argument that Mr. Hulme presented but you're taking it down to the frame and you're building a new house.

June 16, 2022

Mr. Nagel said it's not a new house because we're keeping the foundation if it's new we replace the foundation.

Mr. Musnicki said this is a new house to me. The deck, that will be clearly replaced it's in a different elevation than what's proposed.

Mr. Nagel said the existing deck facing the ocean is level with the first floor of the house.

Mr. Musnicki said we have never approved something like this, that is clearly in the dune crest this close especially when you have options to build further North. Have you explored anything like that?

Mr. Nagel said yes, we have. We're building a new house if we do that.

Mr. Musnicki asked what financial burden would that be?

Mr. Nagel said it will cost more money.

Mr. Piering said what kind of financial burden is it to move the house forward?

Mr. Hulme said we wouldn't, we'd tear everything down and tearing the foundation out of the dune is a significant impact on the dune and we'd start all over and rebuild a new house.

Mr. Nagel said it would be another million dollars, construction today is a lot.

Mr. Musnicki said you don't know that the pilings can support it.

Mr. Nagel said we do know, the engineer checked them out. I don't know if it's a study they have gone to the property and they have said the pilings work.

Mr. Piering asked if they can give that?

Mr. Nagel said yes.

Mr. Hulme said yes, they can submit that.

Mr. Piering said we'd like to see that letter to go forward.

Mr. Hulme said they can provide that.

Mr. Piering asked how far it is from the ocean?

Mr. Nagel said it's 500' to 550' from the ocean.

Mr. Hulme said the dune is substantial.

Mr. Pasca said your argument is that we'd rather not disturb the dune and move the house forward and you know this Board, and every decision they make to push houses further North away from the dune falls under what you said. You're saying it's worse to retreat because we have to remove the foundation, but if that's the case it works for every precedent.

Mr. Hulme said most people are seeking bigger houses.

Mr. Pasca said it's a big part of your argument; we don't want to disturb the dune so we want to leave the house. That argument would apply to everything and you have a lot of area away from the dune. How do you reconcile that?

Mr. Hulme said the scale of the project.

Mr. Piering said that's a relative term.

June 16, 2022

Mr. Hulme said I would hold it over, get the Engineers letter and whatever else you may need and we can address the issues in July.

Mr. Pasca said if you're making a financial argument you need to bring contractors numbers to show that.

Mr. Nagel said we can ask a builder to do it.

Mr. Pasca said to put the financial explanation in writing.

Motion was made by Mr. Piering to holdover the application of **Michael & Elizabeth Levy, 205 Dune Road (905-20-2-8)** to July 21, 2022; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

NEW APPLICATIONS:

10. Mohammad Rizwan Sabar, 156 Dune Road (905-020-01-023) Applicant requests variances from §197-8 C for a proposed building area lot coverage of 22.4% where the maximum permitted is 20%, and from §197-8 D for a proposed rear yard setback of 55.08 feet where the minimum required is 75 feet.

James N. Hulme, Esq., appeared on behalf of the application, together with Rocco Lettieri. Mr. Hulme said there is an existing house on this property and bulkhead and there is a one-story frame house there and it has a non-conforming single side yard on the East and non-conforming total side yard and an existing rear yard of 50'. The final survey is dated May 26, 2022 which is what the Board should be referring to and that shows the lot coverage proposed 22.8% and the proposed rear yard setback of 57.2' which differs from what was advertised, which was 55'.

Mr. Lettieri said the house was retreated because of the septic system so we did not need a variance for the retaining wall.

Mr. Pasca asked if the coverage increased or went down?

Mr. Hulme said it stayed the same, the rear yard setback went down.

Mr. Pasca said the 22.4% is what was advertised, and the lot coverage is now 22.8%.

Mr. Hulme said it's May 26, 2022 and that shows lot coverage of 22.8%. That is what we're proposing.

Mr. Lettieri said when he shifted the house, the deck got larger.

Mr. Pasca said if we advertise less then we have to go back to the re-advertisement. This went up so you may need to be held over, or you can modify the deck.

Mr. Hulme said we're seeking the relief that was advertised.

Mr. Hammond asked if the setback on the East is 20'?

Mr. Hulme said yes. I apologize for the confusion, a survey showed 29.9' and 20.2' so we shifted it to get compliance on the sides. You can see, the house is close as all are, and the existing house is 50' and we're retreating by 7' from its existing location and using that as a benchmark that side of Dune Road has a 75' setback and on the ocean side it makes sense to protect the dune but on the Bay Side on a bulkheaded property the 75' doesn't make a lot of sense since a lot of the lots on the Bay side are not as deep as the ocean lots. At 57' we would be very much in keeping with what is there on either side of us and in keeping with the neighborhood. As to the lot coverage, the house itself is well under.

Mr. Lettieri said I did everything I could to make it fit on the lot, but if you look at the house what I did with the house it is smaller and its elevated and the deck is too and that counts in lot coverage. The one section the lot coverage impacts the ground, rain and stormwater and the

June 16, 2022

living room is elevated and its all-grass paved area under it so there is a good 800 square feet not touching the ground, it's floating and the drainage will still function.

Mr. Piering said if the pool wasn't elevated, would you need lot coverage?

Mr. Letteiri said the deck is not and it's the deck. If you don't elevate the deck you need a lot of stairs because of the FEMA requirements.

Mr. Piering said the pool is perpendicular to the house?

Mr. Letteri said yes.

Mr. Hulme said the pool is conforming.

Mr. Piering said I understand.

Mr. Lettieri said the pool is 50' and 50' on the side yard.

Mr. Piering asked how far it is off the bulkhead?

Mr. Hulme said it is 23.6' off the bulkhead.

Mr. Piering said you have to raise the pool so it's one level?

Mr. Lettieri said yes, all of the function is on the first level and the deck is not a large space. I elevated the living room and all of that is open for drainage and flooding. It doesn't adversely affect the lot and the surrounding lots. That's what the DEC is concerned with and its all elevated and actually touching the ground is a lot less than the lot coverage.

Mr. Hulme said it doesn't get full conformity but it reduces a number of non conformities. The neighbors that commented are to the West, and we are conforming on the Westerly side of the property.

Mr. Letteri said the pool is in the middle of the property its away from everyone to keep privacy. For the function of that smaller lot, I had to retreat more.

Mr. Musnicki said since it is a blank slate, why don't you come in at 20% or lower?

Mr. Lettieri said I can't get the rooms, the decks it won't work. I retreated a lot it was a lot bigger and I scaled it down and I know what this Board is going to ask, I'm not asking for much and I'm trying to accommodate it and I elevated it.

Mr. Musnicki said okay. The 75' rear yard setback, what are the challenges?

Mr. Lettieri said in the past it was 50' and 75' off the back yard makes a non buildable building envelope, it's a 171' wide lot.

Mr. Pasca asked the existing rear yard setback to the house?

Mr. Hulme said it is 50' and to the deck it is closer, but still at least 20'.

Mr. Lettieri said I retreated it 7' the house is a "T" so it's just the dining area coming out 2' and the living room steps back 2' from that.

Mr. Piering asked if the lot area is 16,800 feet? It should be 20,000 so the lot is undersized?

Mr. Hulme said yes, that added to the challenge as well.

Mr. Lettieri said I retreated it and I thought about this a lot. The area that's lifted opens it all up and makes it lighter on the ground level and deals with a lot of the issues for lot coverage. Lot coverage is a driving force and the drainage and the impact of the house on the site. The house is not large relative to the street.

June 16, 2022

Mr. Hulme said the footprint is about the same as the existing house.

Mr. Lettieri said yes, that's true. It's more conforming and I got the IA system to work in the front yard with no variance, we're upgrading it substantially.

Mr. Piering said the neighbors were concerned about the elevated pool, can we discuss that?

Mr. Lettieri said the pool is centered in the yard if I move it, it will be closer to them

Mr. Piering said they said it sticks out like a pier.

Mr. Lettieri said the pool and deck relate to the main body of the house and where it ends is where its elevated and its transparent under the whole house and the pool starts in the whole house and the pool and deck and foyer go out and it's a small cube jutting out.

Mr. Hulme said it's a substantial distance from the neighbor.

Mr. Lettieri said if I turn the pool and it gets much closer to the neighbors and they wanted a buffer and they wanted a buffer from the Westerly neighbor. The pool is elevated on grade beams, and I'm doing a geothermal system, there's no air handlers and noise and there will be no units on the outside of the buildings, all of the pool equipment will be under the deck as well and it will be the only thing that can make noise.

Mr. Hammond said it's two tax lots and the denial is predicated on their merger and by the new small lot ordinance ai would have to deem them merge, it's always better for the property owner to do that.

Mr. Hulme said we can't find a reason why its two tax lots, but we will merge them with the Town to get a single tax lot number.

Mr. Lettieri said I will lose 67 square feet and keep what was advertised.

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

Motion was made by Mr. Piering to close the application for **Mohammad Rizwan Sabar, 156 Dune Road (905-20-1-23)** for a determination; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

11. WHB Development Partners LLC, 107 Old Riverhead Road (905-022-02-021) Applicant requests variances from §197-30 C(9)(c) for proposed ground mount sign lettering of 38 inches in height where the maximum permitted is 12 inches, from §197-30 C(9)(c) for a proposed ground mount sign area of 32 square feet where the maximum permitted is 25 square feet, from §197-30 C(20)(b) for proposed wall sign letters of 36 inches in height where the maximum permitted is 12 inches, and from §197-30 D(14) for proposed digital gas price ground sign which is internally illuminated where specifically prohibited.

James N. Hulme, Esq., appeared on behalf of the application, together with Irwin Krasnow. Mr. Hulme said they are proposing a gas station and accessory convenience store and they are pretty much finished with the Planning Board and now they are going to look at at their signs and under the Code they are entitled to two signs, a wall sign and a monument ground sign near Old Riverhead Road and they have dimensional differences so there are four variances all together and three have to do with the size and we're seeking something more large, one is the building which is the accessory use is over 170' from the road so the lettering sizes that would meet the Code requirement is too hard to see from the road on the building. There is going to be a monument sign and one on the building and there is no signage on the canopy over the fuel pumps. The lot is almost 70,000 square feet in size which is almost twice as large as the minimum required and the point of that has to do with the fact that we could have established a number of uses with signs for them, and four uses would entitle them to additional signage and we're foregoing that and asking to allow the signs we're entitled to be larger than allowed. The sign ordinance is generic in the Village but there are not a lot of differences, and this relates to the ground sign and we're in a unique spot in the Village and interestingly enough the speed

June 16, 2022

limit is 55 MPH and drops to 40 MPH and they are coming down the road fast so that would be another reason why we need a larger sign.

Mr. Piering asked how it compares to the Metro Storage Sign?

Mr. Hulme said its setback 10' and I think it is about 6' tall and has a 2' base.

Mr. Piering said that's what we were referring to when we allowed a second sign.

Mr. Hulme said there are three lines of 12" letters and we're proposing in total nothing taller than the three lines of text on the Metro sign; they have three lines and we do not. The size should be comparable. We can provide the measurements.

Mr. Badzik said he walked by today and it was lower than his shoulders.

Mr. Hulme said we will measure it and provide that. The other aspect is the digital portion of the sign, which is characterized as a back illuminated sign and solely for the purpose of the gasoline prices and functionally it is easier for the gas station attendant to adjust the prices. The back illuminated signs are not permitted, but it does permit a sign like this to display time and temperature.

Mr. Piering said he heard their discussions with the Fire District.

Mr. Hulme said this is just numbers.

Mr. Piering asked if the Valero has digital signs?

Mr. Hulme said he did not know.

Mr. Piering said no they do not.

Mr. Pasca said with the internal illuminated signs, the purpose is to avoid distractions to passing motorists and this will be close to the road.

Mr. Hulme said the information is static on it.

Mr. Pasca said that's the portion of the Code the way it's written. It's 10' from the road and I understand the idea and that's why we are against illumination.

Mr. Hulme said it's no more distracting than a non illuminated sign.

Ms. Cea said the FAA has Codes regarding lighting. You have to file with them and has that been looked at?

Mr. Kirwin said we're 2' off of the ground.

Ms. Cea said they will look at that.

Mr. Hulme said they will look into it. If the distracting illumination is an issue we can get information to the level of illumination, if it was time and temperature we would not be having this conversation.

Mr. Pasca said these signs were amortized out of existence; they were banned and disbanded.

Mr. Hulme said they will get back to this Board with the measurements and also talk to his client about the illumination.

Mr. Piering said there is a sign on the building, the ground sign and Metro Storage sign?

Mr. Hulme said yes.

Mr. Musnicki asked if there will be window signs?

June 16, 2022

Mr. Hulme said they are prohibited.

Mr. Badzik asked them to explain the Phillips light explanation?

Mr. Hammond said it's an exterior light bar, the 7-11 panel is not illuminated.

Mr. Badzik asked if that's going to be on the ground mount sign?

Mr. Hammond said yes.

Mr. Badzik said there's external for the ground sign, as well as internal illumination.

Mr. Krasnow said only on the display if you allow it.

Mr. Badzik asked if they are dark sky compliant?

Mr. Hulme said yes, they have to be and we will represent that.

Mr. Hammond said they are down lighting.

Motion was made by Mr. Piering to holdover the application of **WHB Development Partners, LLC., 107 Old Riverhead Road (905-22-2-21)** to July 21, 2022; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.

12. Thomas Schmidt, 66 Exchange Place (905-015-04-049.01) Applicant requests variances from §197-6 C for a proposed building area lot coverage of 21.9% where the maximum permitted is 20%, from §197-6 D for a proposed front yard setback of 30 feet where the minimum required is 50 feet, a proposed combined side yard setback of 68.3 feet where the minimum required is 70 feet, and for proposed rear setbacks of 30.1 & 17 feet where the minimum required is 50 feet, from §197-35 C for proposed accessory structures located in the side yard where specifically not permitted, for a proposed accessory deck setback of 17 feet where the minimum required is 20 feet, and for a proposed accessory pool setback of 17 feet where the minimum required is 20 feet.

James N. Hulme, Esq., appeared on behalf of the application, together with William Barbra, Austin Patterson Disston Architects. This property is at the end of Exchange Place and its an odd shaped parcel and the front yard which fronts on the circle of Exchange Place and not the typical street front and the side yard to the North abuts the house to the North and the side yard to the South is on Quantuck Bay and there is no house to impact and the rear yard is property that cannot be improved and if its effectively on the water as well. The size and shape of the property presented challenges and the proposed house meets the FEMA requirements, it meets the newest building code requirements and includes a modern IA septic system. Right now, we have lot coverage of 15.7% but the actual coverage is the DEC coverage because everything's at grade the decks don't count, it is north of 25% at 25.8% so I think its fair to compare the proposal to that number as opposed to the existing, we need to meet FEMA and decks that did not count will now count. By that measure we're reducing the overall lot coverage. In addition, we have a pool in a side yard and that's proposed here as well. We have a 20' front yard setback and a rear yard setback of 25' and on the South 23' and as indicated.

Mr. Barbra said as you come down Exchange Place, there is a large blank wall and because of the orientation of the house, the Western elevation to face Exchange Place will show a little more of the front door. We're making it more presentable in the front yard and we're retreating on the front, rear and side yards compared to the way it exists today.

Mr. Hulme said they are seeking relief on the lot coverage, 21.9% and the fair comparison is due to the DEC regulations and we can compare to their calculated lot coverage which is 25.8% and the reason for that is the 2,000 square foot patio at grade but it does cover 2,000 square feet of the property. We are proposing a 30' front yard setback, the current is 20' so we're improving that.

Mr. Piering said the front yard is off of Exchange Place?

June 16, 2022

Mr. Hulme said yes.

Mr. Piering asked why they shaped the driveway the way they did?

Mr. Barbra said due to the sanitary system requirements. Due to the existing ground water, it's a 2.7' below surface so we're using the existing grade as the base of zero to start and the sanitary system will be placed on top of where it is and the pool has groundwater plus.

Mr. Hulme said Exchange Place at this point is a big circle and not the typical situation, and across the street from this is a lawn area and even though we need front yard relief it's not as impactful as it would be if there were a neighbor there. The combined side yards are 68.3' as opposed to the required 70' and we're pretty close and most importantly the side yard on the side that would impact the neighbor conforms at 30' to the North. If you look at the aerial photograph, this is the only house this impacts, the other sides one is Exchange Place and the other two are on the water. Some land is effectively that way we're only 1.7' off the required setback. The proposed rear yard is 30.1' and 17' at another as compared to the current 25.2'. The 17' is misleading because there's a boat slip, and by Code that can't be included in the setback measurement, but it's on the property and it is water as opposed to land and if it were land that portion would be substantially bigger than it is now.

Mr. Piering asked if the boat slip, does that lose square footage for it?

Mr. Hulme said yes.

Mr. Piering said Does the boat slip cause a loss in the lot area?

Mr. Hulme said yes.

Mr. Piering said if you didn't have the boat slip you may not need an area variance/

Mr. Hulme said yes. That feature penalizes them in the lot coverage and the rear yard setback. But again, the rear yard impacts the water and not the neighbors, and the side yard on the South impacts the water and not a neighbor, and lastly the pool in the side yard and we're replicating the condition that we have now. Again, it is even though it's in the side yard it's at the point that the pool does not affect anyone because the house shields the pool from the neighborhood and if we move it, it will impact the neighbor.

Mr. Barbra said they did a zoning analysis early, the building envelope is small and awkward.

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

Mr. Musnicki said that was a good pick up on the boat slip, and that would be a concern of mine. But I see the logic with the boat slip, and I think it works.

Motion was made by Mr. Piering to close the hearing of **Thomas Schmidt, 66 Exchange Place, (905-15-4-49.1)** for a determination; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 1 absent.

Motion was made by Mr. Piering to close the meeting at **6:34 p.m.**; seconded by Mr. Badzik and unanimously carried 4 ayes, 0 nays, 1 absent.