

October 20, 2022

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, October 20, 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  
John Wittschen  
Daniel Martinsen

Anthony C. Pasca, Esq., Village Attorney

Brad Hammond, Building & Zoning Administrator

Maeghan Mackie, Building Permits Examiner / Board Secretary

**MINUTES TO BE APPROVED**

Motion was made by Mr. Piering to adopt the minutes of the September 15, 2022 meeting as written; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

**DECISIONS**

**1. 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.

No one appeared on behalf of the application. Mr. Piering stated that there was not a determination and one would be rendered at the November 17 meeting.

**2. Frances Kweller, 143 Beach Road (905-007-02-011)** Applicant requests variances from §197-43 A(1) to legalize a fence erected in the front yard (corner lot) of 6 feet in height where the maximum permitted is 4 feet, and from §197-35 C to legalize a freestanding sauna erected with a setback of 9.5 feet where the minimum required is 20 feet.

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

VILLAGE OF WESTHAMPTON BEACH  
ZONING BOARD OF APPEALS

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In the Matter of Application of

Frances Kweller

**DETERMINATION**

Address: 134 Beach Road

SCTM #: 905-7-2-11

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**I. REQUEST FOR RELIEF**

The applicant, Frances Kweller, is the owner of a parcel of real property located at 134 Beach Road. The property is located wholly within the R-2 Zoning District. According to the

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survey of the property drawn by AJC Land Surveying, PLLC Land Surveying and Planning, dated May 11, 2019, and updated on July 29, 2022, the parcel is improved with a two story frame residence, an inground swimming pool, a detached shed, a detached sauna and a six-foot tall wood fence.

Section 197-43.A.(1). of the Village Code provides that in all districts, no fence located within a required front yard shall have a height greater than four feet or two feet pursuant to §197-48.

Section 197-35.C of the Village Code provides that in the R-2 Zoning District, accessory buildings, structures, tennis courts and swimming pools cannot be located closer than 20 feet to any lot or boundary line.

The applicant is seeking variances to legalize the existing six-foot tall fence erected partially within the required front yard, where the maximum permitted height is 4 feet, and to legalize a freestanding sauna erected with a setback of 9.5 feet from the southerly lot line, where the minimum required setback is 20 feet.

## **II. SEQRA**

The applicant submitted an Environmental Assessment Form Part I pursuant to the State Environmental Quality Review Act (SEQRA). Because the application involves accessory residential structures and a setback variance, the action is classified as a Type II action under 6 NYCRR § 617.5(c)(12) and (16), and therefore no SEQRA review is required.

## **III. ZBA PROCEEDINGS**

This application was duly noticed for a public hearing, which was opened on September 15, 2022. The applicant's agent, Susanna F. Herrmann, EN Consultants appeared and presented the application.

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

The hearing was closed at the September 15, 2022, meeting for a determination at the October 20, 2022, meeting.

## **II. 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.

### **III. FINDINGS AND CONCLUSIONS**

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

1. *Character of the Neighborhood:* The applicant has demonstrated that the granting of the variances will not cause any material adverse impact on the character of the neighborhood, subject to the conditions herein. While the Board does not condone requests to approve structures erected unlawfully, without prior permission, the nature of these structures and the explanation given by the applicant suggests that the conduct was not intentional. However, so as not to perpetuate a mistake in perpetuity, any variances granted herein shall lapse automatically if and when the subject fence and sauna are removed or replaced, at which point they will be required to conform to the code.
2. *Alternatives:* No feasible alternative exists to achieve the benefits sought (which is to avoid the expense of reconstructing the fence to a 4-foot height and relocating the sauna to a conforming location, on a new concrete slab).
3. *Substantiality:* The variances are mathematically 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:* On balance, the benefit to the applicant outweighs the detriment to the community.

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The Zoning Board therefore grants the requested area variances to allow the applicant to maintain the nonconforming section of the fence and the sauna, subject to the following conditions:

**IV. CONDITIONS**

1. The variances herein shall apply only to the existing fence and existing sauna and shall not be construed as allowing the fence and sauna to be reconstructed with any nonconforming dimensions. At such point as the existing fence or sauna are replaced or reconstructed, the variances relating to those structures shall automatically lapse, and only conforming structures, with conforming dimensions and setbacks, shall be allowed to be erected as replacements for the fence and sauna.

2. 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 survey, 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.

3. 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.

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

5. The variances granted herein shall terminate unless a building permit is issued within 180 days from the date hereof and construction completed according to said building permit.

Dated: October 20, 2022

Village of Westhampton Beach  
Zoning Board of Appeals

Motion was made by Mr. Piering to adopt the determination of **Frances Kweller, 134 Beach Road (905-7-2-11)** as written; seconded by Mr. Martinsen and unanimously carried 5 ayes, 0 nays, 0 absent.

**HOLDOVERS:**

**3. Michael & Elizabeth Levy, 205 Dune Road (905-020-02-008)** Applicant requests variances from §74-5 C for proposed major additions to the dwelling (nonmovable 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

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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. He said they left off last month and they submitted a proposal wherein they moved the house back to 50' from the crest of the dune and they discussed the significance of that, and in the discussion with the Building Inspector another benefit to moving to 50' is that it eliminates a variance. One of the variances they needed was construction in the primary dune, but if you read the definition of the primary dune and the secondary dune starts at 50' from the Dune Crest so they are not proposing the house in the primary dune. They have reduced the number of variances from three to two and the deck is shown in to that area, but its less interfering than the house itself. The other thing we discussed was the appropriateness of the distance in question, and I think Ms. Mackie provided you with the decision for 213 Dune Road from 2019 and you granted a crest of the dune setback of 46.1' and a lot of other relief. We are only seeking th setback relief no other relief tha you granted to that case. There was a case at 119 Dune Road which had a lot of other issues and relief, and you allowed 13.8' for the house and 10' for the deck, and 165 Dune Road which is relatively recent and you allowed 50.2' from the crest of the dune setback and if I want to stretch the point, the reconstruction of the Sandpiper was allowed 26.3' as the dune crest setback. Each case stands on its own and as indicated last time, unlike Coastal Erosion, the setback is an area variance subject only to the balancing test and it's not an environmental test or FEMA test, it's just an area variance setback. We're seeking for approval to move back 50' and we believe it's appropriate between the needs of the applicant and the Village to protect the dune by seeking to have the 75' setback honored. As I said, from the environmental perspective the real relief is the primary dune setback and the only variance we are seeking is to remain in the CEHA and that's not unusual for properties on Dune Road.

Mr. Piering asked him to go through the benefits to the applicant.

Mr. Hulme said the proximity to the ocean, the view of the ocean, not having to be behind the other houses. IF we move further back than the 50' proposed; our ocean side looks at their street side so we are like the toll booth along the highway.

Mr. Piering said the Easterly home is further back.

Mr. Hulme said down the beach you will see that is not the case.

Mr. Piering said the dune crest distinction is there; 213 Dune Road was your case.

Mr. Hulme said yes.

Mr. Piering said it takes extenuating circumstances and this is a blank slate; 213 Dune Road is to keep the gunite pool.

Mr. Hulme said he doesn't know if they kept the pool.

Mr. Hammond said yes.

Mr. Hulme said this house wants to keep the deck and location their benefit is to be close to the ocean as possible, and the benefit to the Village is to be as far from it as possible. We have moved out of the primary dune and eliminated a variance.

Mr. Piering asked which variance is eliminated?

Mr. Hulme said the primary dune.

Mr. Pasca asked if Mr. Hammond agreed with that.

Mr. Hammond said yes.

MR. Pasca asked what the final variance they are seeking?

Mr. Hulme said the primary dune variance for th deck, not the house.

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Mr. Hammond said the primary dune is for reconstruction, restoration and dwelling; the deck and accessory structure that doesn't need the same CEHA relief as an enclosed building. There is a rear yard component because if the deck wasn't moving you are infilling and that wasn't contemplated in the first denial.

Mr. Hulme said in summary we have eliminated the primary dune variance and we need a 25' variance for the house; and the deck is still at whatever it was advertised for. If the deck makes the difference here we're happy to move the edge of the deck back an equal amount.

Mr. Piering said if you move the house forward and leave the deck, will you be filling the deck in?

MR. Hulme said yes, I am happy to concede and move the deck back.

Mr. Pasca asked if that's 11' 6"?

Mr. Hulme said yes; the deck would move back 38'. It will be at 39' 6" and the house will be at 50'. We will submit a survey with those details.

Mr. Musnicki said when the application first came in it was based on the existing deck, and that was the anchor for this plan and to move forward from that and that's gone now. Over the course of the meetings everything was agreed it would be removed and it will be new construction, and by rights the deck should be 75' for the dune crest.

Mr. Hulme said unless you grant a variance for it.

Mr. Musnicki said a portion was not called out for 75'.

Mr. Hulme said it was 11' whatever the distance from the dune crest it was. We were seeking a variance for relief for the house and deck at 75' and we've moved the house back and decreased the level of variance and we did not move the deck back and what I indicated that if it makes a significant difference, we'll move the deck back the same distance we will move the deck back to decrease the variance.

Mr. Musnicki said you moved the house back 12' is that what you're offering?

Mr. Hulme said yes, I'm moving it back 12' so the house can be at 50' so we can eliminate one of the three variances we're seeking.

Mr. Musnicki said it's still substantial. You have the ability to comply.

Mr. Hulme said the impact is dramatic. We would be looking at the front of everyone's house.

Mr. Musnicki did not agree with Mr. Hulme.

Mr. Hulme said at 50' we're directly parallel to the East.

Mr. Musnicki said he thinks it needs more work and as you said every one is a different circumstance.

Mr. Hulme said we're not seeking a lot of relief, just this. We don't need lot coverage, side yard setbacks and nothing you considered in other cases where you granted crest of dune setback and its only an area variance and it's a rear yard setback and I understand you're trying to protect the dune but it's relief to allow us closer to the rear yard.

Mr. Musnicki said I don't remember arguments for a view where you cant move 10' to 15' back to not lose the view.

Mr. Hulme said it's a legitimate argument in this case, and by moving it back it's less value.

Mr. Pasca said if you move it back 75' the neighbor to the West is almost at 75', and that shows the neighbors house and its barely touching that.

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Mr. Hulme said on the other side we're behind it. This is about balance.

Mr. Piering said we try to push them out as far as we can, that's our balance.

Mr. Pasca said it's not midway between the two houses, it's not an average. Your views can be interfered if you go too far to the North.

Mr. Hulme said if we go to the 75' we're blocked by the Easterly neighbor.

Mr. Piering said that's only until they rebuild their house.

Mr. Musnicki said its more about the ocean view; it's 25' its minimal.

Mr. Hulme said every foot counts.

Mr. Musnicki said I think it needs more work.

Mr. Hulme said if you're looking for us to move to 75' we probably won't, but what's intermediate. 50' seems reasonable for us to stop and you accept the benefit and that's the argument in other cases and that's been enough to get the variances, it ranges 13' to 50'.

Mr. Piering said I don't dispute that and this is a blank slate and you can conform.

Mr. Hulme said I will speak to my client, but the answer might be this is what we'd like to do and the only thing I can offer in mitigation is the deck and I can't tell if that's significant enough or not.

Mr. Piering said he has nothing else to add.

There were no other questions or comments.

Motion was made by Mr. Piering to close the hearing on the application of **Michael & Elizabeth Levy, 205 Dune Road (905-20-2-8)** for a determination; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

**4. First Dunes Development 496 LLC, 496 Dune Road (905-016-01-019)** Applicant requests variances from §197-8 B for a two-lot subdivision with proposed lot areas of 13,211 & 15,022 square feet where the minimum required is 20,000 square feet and featuring proposed lot widths of 80.47 & 79.53 feet where the minimum required is 100 feet. Applicant also requests variances associated with proposed single-family development of the two potential lots from §197-8 C for proposed building area coverage of 23.4% for "Lot 1" and 22.6% for "Lot 2" where the maximum permitted is 20%, from §197-8 D for proposed side yard setbacks of 10 & 15 feet for both lots where the minimum required is 20 feet with proposed combined side yard setbacks of 25 feet where minimum required is 50 feet, from §197-35 C for proposed deck setbacks of 10 & 15 feet for both lots where the minimum required is 20 feet, and also from §197-35 C for a proposed pool setback for of 15 feet for "Lot 1" where the minimum required is 20 feet and for a proposed pool setback of 10 feet for "Lot 2" where the minimum required is 20 feet.

James N. Hulme, Esq., appeared on behalf of the application together with Chad Gessin. Mr. Hulme said they were seeking the variances in two categories and they are to create the lots and they were to establish a building envelope but subsequently we have submitted a proposed plan and that's for the homes on each lot. The other change we made was the outer side yard setbacks of the created lots, the side yard setbacks were 15' and we've changed that to 20' on both sides and have retained the 10' side yard setback on the internal line as part of the project. We have eliminated the variances that were needed and one question that was raised at an earlier hearing was why we aren't building one house and that's driven by the economics. We have 8 cottages earning income and we could co-op them and elevate them and renovate them and sell them, and that would be more economical than a single house. Getting the variances to create two lots and develop two lots turns the economics back to residential and make it more attractive to the Village. This is a single family residential zone and that's to force compliance with the uses. I submitted to this Board a chart with analysis of the neighborhood as it pertains to the variances we're seeking and I left out the first variance of lot area and we're seeking to split 38,000 square feet into 13,1100 square feet and 15,023 square feet and the areas of 486 Dune Road through 506

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Dune Road which are on either side of us and the average lot size for those 8 lots is 16,500 square feet so we are not too far off from that. There are a number of lots, 3 of the 8 are around 13,000 square feet which is smaller than the smaller lot we're proposing. The lots are in keeping with the neighborhood and the next thing is the lot width and I included that in my chart, and the average lot width is 76.13' and ours proposed are 80' wide and larger than the neighborhood lots. Lot coverage we're proposing is over 20% but it's comparable to the existing lot coverage in exchange to allow for that we're eliminating 8 uses, and 8 old sanitary systems and modern systems and two single family dwellings. The side yard setbacks were 10' and 15' and now they are 10' and 20' and the inner side they are out of compliance, but we're only affecting these newly created lots and not the neighbors. I don't think the community is harmed by us agreeing that we are doing it to ourselves. Looking at the lot widths in the side yard setbacks they range from 7.3' to 9' up to 25' 14' 23' for an average of 16' and if you average our two it's 15' so we're just about in the community average with our proposed lots. The total side yard the average is 32' in the area and we're at 50' so it's significantly higher than what we proposed versus what is in the neighborhood. With the accessory side yard relief we were 15' and 10' we are now 20' and 10' and we comply with the neighbor, but not within our own setback. If these variances are granted and the lots are created and constructed they will be in keeping with the neighborhood and some of the neighbors came and were concerned about the lot sizes and house size. A case in point, and I did look at the actual foot print of the houses in the area and they were an average of 1,600 square feet and ranged from 2,300 down to 880 square feet and we're at 1,825 square feet. We're in the range of homes built in the area and they won't stand out as being overly large for the neighborhood. I looked at living area and in calculating that there are two houses that are single story and that's permitted use in the Village and that habitable area came out to 3,200 square feet and were slightly larger but we're in the range of the square footage. What we're proposing and what will result are two lots with single family residences on each lot which is what its zoned for and it won't be noticeably different in size as to what is either side of this.

Mr. Piering said that Mr. Hulme did a great job, and their concern was the side yard setback and I recognized the neighbors concerns, but they are going to get the side yard setbacks and I'm concerned why we can't do better between the two lots.

Mr. Hulme said because then we get down to a much smaller house.

Mr. Piering asked the square footage?

Mr. Hulme said it's 1,825 square feet; the neighborhood goes from 2,400 to 880 square feet. That would push us down quite a bit.

Mr. Piering asked if it's bigger than whats in the neighborhood?

Mr. Hulme said no; the habitable space gets harder to construct. You're always looking at impacts and it's on us and when there's a situation with the neighbor being impacted and they are okay with it as long as theres landscaping, and then you usually move on and it gives this Board comfort knowing the relief isn't terrible to the neighbors. In this case, we are our own neighbors and the risk is on us.

Mr. Piering said I understand that; but it's still the Village and we view the Village as a whole.

Mr. Hulme said the 10' is not out of character; there's 8', 9', 7.3', 14' so the 10' is on the lower end and not out of scale with the neighborhood.

Chad Gessin said the existing setback is zero for some of the structures.

Mr. Hulme said it's zero on the neighbors also. It's a little component and it's a setback.

Mr. Piering said it's economic and this setback is needed to do this project.

Mr. Hulme said it gets rid of a non conforming use, and they moved to 20' on the neighbors property.

Mr. Piering asked if there were any questions.



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Mr. Musnicki said the variances run with the property, so the argument that its on the new buyers and what they're getting in to doesn't fit for this Board.

Mr. Hulme said you consider neighbor comments and they soften the resolve on the relief you are inclined to grant or not.

Mr. Piering said it's one of the five factors.

Mr. Musnicki said if you gave another 20' would that eliminate the variances?

Mr. Hulme said no, we'd need lot area and lot width. This is a balancing test, and what we are getting is some excesses and the Village is getting compliance with the residential zoning code by eliminating the cottages that are pre existing non conforming.

Mr. Musnicki said they are five bedrooms, 3,6000 square feet and if you gave us 20' on both sides it brings it down to 2,900 square feet and not over built on the property. When you compare to the neighborhood it's a general statement; there are houses that are 40 to 50 years old.

Mr. Hulme said they constitute the neighborhood, the house is there whether it's 40 or 50 years old.

Mr. Musnicki said it's a small part of the balancing test, can the benefit be achieved in a better method, giving a 20' side yard on each side you still have a 2,900 square foot house.

Mr. Hulme said if that doesn't happen, this may not work and we're left with what we can do to sustain the cottages and that use.

Mr. Musnicki said you can go that route.

Mr. Hulme said giving that up is a significant benefit and we're only asking for minimal relief for return to give up benefit.

Mr. Musnicki said its not minimal, now and if and when you get it the relief in side yard and lot coverage is still putting a five bedroom house on a small lot.

Mr. Hulme said there are other five bedroom houses in this neighborhood.

Mr. Musnicki said he doesn't know how they got there.

Mr. Hulme said that doesn't matter, if they have a CO they are the neighborhood and that's one of the factors and the numbers suggest we're in keeping with the neighborhood and that coupled with the benefit of the Village we eliminate a non conforming use, and it's a goal of the Code to eliminate non conforming uses; the average in the neighborhood is 16' and it ranges from 7' to 25' so our 20' and 10' is not out of character with what exists so to impose on us and to deny us relief it puts us out of scale.

Mr. Piering said he has nothing else to add. He asked if there were any other questions or comments.

There were no other questions or comments.

Motion was made by Mr. Piering to close the public hearing on the application of **First Dunes Development 496, LLC., 496 Dune Road (905-16-1-19)** for a determination; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

**5. Michael Cavanagh, 28 Halsey Ave (905-009-02-014)** Applicant requests variance from §197-35 C for proposed accessory structures located in the side yard where not permitted.

James N. Hulme, Esq., appeared on behalf of the application, together with Joshua Rosensweig, Architect. Mr. Hulme said there was a discrepancy between the new proposal of the pool into the front yard which would have created a variance, and in our new submission we eliminated that and we're back to our plan. The side yard of interest abuts Oneck canal and there was an updated CO

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in August 2021 which includes everything on the survey and they have done subsequent work and there has been a pool in the side yard for quite some time and it was pre existing and there was a variance in 1999 where there was a fire and the house was destroyed and reconstructed and required a variance to maintain the swimming pool and that was granted because the pool was there. We are here to rebuild the swimming pool in place and add a spa and what we consider to be landscape features in the side yard.

Joshua Rosensweig provided color renderings to the Board and said when you look at the survey things are more complicated to see. At the heart of this project we colored in what's only in the side yard so you can see what's being proposed. The pool and the spa are the structures were looking to review and receive relief on and its more of a topiary and perennial gardens and a sitting area. It's all circulation and landscape features and it seems like a large request, but at the heart of the structures its really the pool and not the entire pool just a portion of the swimming pool. The portion of the pool and the spa are paths, egress points, and what we've done is create symmetry and balance. The neighbor is the canal, and the pool will abut the canal and not an actual neighbor.

Mr. Piering asked where the pool equipment is going to go?

Mr. Rosensweig said it will be behind the hedge to the side of the pool.

Mr. Pasca asked where the sanitary system is?

Mr. Rosensweig its on the other side of the house that fronts Halsey Avenue.

Mr. Piering asked him to go through the variances needed.

Mr. Hulme said the swimming pool and hot tub in the side yard; I don't think the path is.

Mr. Hammond said it's a patio and elevated and the denial said accessory structures instead of listing them all, this went into all of this so I think one section covers it all.

Mr. Hulme said we introduced the concept about the side yard lot coverage as a measure of how it's less impactful. We're not proposing to do anything differently and it reduces the coverage of the side yard lot. As we know, we have these limits on accessory structures to protect neighbors and we have the canal which is on the side of the pool and the canal is around 100' in width and we're 100' from the property across the canal and their back yards back up to the canal. We are a side yard against a big rear yard which is what the code wants. It's a unique lot. It was a pre existing pool we're looking to replace with landscaping and make it nicer, were not more impactful than we are now.

There were no other questions or comments.

Motion was made by Mr. Piering to close the public hearing on the application of **Michael Cavanagh, 28 Halsey Avenue (905-9-2-14)** for a determination; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

**6. Lee & Carolyn Renzin (905-008-08-003)** Applicant requests variances from §197-7 C to construct a swimming pool that will result in a building area lot coverage of 21.7% where the maximum permitted is 20%.

No one appeared on behalf of the application. William Shapiro, Esq., submitted a request to hold the application over to November 17, 2022.

Motion was made by Mr. Piering to holdover the application of **Lee & Carolyn Renzin, 2 Lilac Road (905-8-8-3)** to November 17, 2022; seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

#### **EXTENSION REQUEST:**

**7. 104 Westhampton, LLC., 104 Main Street (905-12-4-32)** Applicant requests an extension of their Board of Zoning Appeals determination dated September 17, 2020; The applicant is seeking a two year extension of which 18 months are retroactive for a new expiration date of March, 2023 to finalize the subdivision with the Planning Board.

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James N. Hulme, Esq., appeared on behalf of the application. The prior owner of this property in 2020 received a subdivision approval for this and received a minor variance for it and there were conditions that had to be met; and the conditions were not met. They have reapplied to the Planning Board to seek to re-establish the subdivision and we're here to get a two year extension of the prior approval, retroactive to September 17, 2021 and finish with the Planning Board and go to March of 2023.

Mr. Piering stated that they would grant the extension up to and including March 16, 2023.

Mr. Hulme thanked the Board.

Motion was made by Mr. Piering to grant the extension request for **104 Westhampton, LLC, 104 Main Street (905-12-4-32)** to March 16, 2023; seconded by Mr. Wittschen 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.