

August 17, 2023

Incorporated Village of Westhampton Beach held its Board of Zoning Appeals meeting on Thursday, August 17, 2023, 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

Maeghan Mackie, Building Permits Examiner / Board Secretary

ABSENT: Brad Hammond, Building & Zoning Administrator

DECISIONS:

1. Lee & Helena Galperine, 319 Dune Road (905-018-02-021) Applicant requests variances from §197-8 C for proposed lot coverage of 26.9% of the total lot area where the maximum permitted is 20%, from §197-35 C for proposed rear deck with setback to the crest of dune of 64.5 feet where the minimum required is 75 feet, and also from §197-35 C for proposed pool with setback to the crest of dune of 66.6 feet where the minimum required is 75 feet.

James N. Hulme, Esq., 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

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

Lee Galperin
Helena Galperin

DETERMINATION

Address: 319 Dune Road
SCTM #: 905-8-2-21

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I. REQUEST FOR RELIEF

The applicants, Lee Galperin and Helena Galperin, are the owners of a parcel of real property located at 319 Dune Road. The property is located wholly within the R-3 Zoning District. According to the survey of the property drawn by Nathan Taft Corwin, III Land Surveyor, dated August 25, 2005 and last updated on June 22, 2023, the parcel is improved with a two story frame house on piles, a second story wood deck, a detached garage with a pergola over the second story wood deck and built in swimming pool over the garage.

Section 197-8.C. of the Village Code provides that, in the R-3 Zoning District, the building area lot coverage shall not exceed 20% of the lot area, exclusive of all areas south of the crest of the northerly dune and all areas designated as tidal wetlands by the New York State Department of Environmental Conservation.

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The applicant is proposing to remove the existing pool and construct a proposed rear deck with a built in swimming pool. The resulting coverage is 24.7%. Therefore, the applicant requests the required coverage variance from Section 197-8.C. of the Code.¹

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 a setback variance for accessory residential structures, the application is classified as a Type II action under 6 NYCRR § 617.5(c)(12). Accordingly, the application is not subject to review under SEQRA.

II. ZBA PROCEEDINGS

This application was duly noticed for a public hearing, which was opened on April 20, 2023. The applicant's attorney, James N. Hulme, 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 July 20, 2023, meeting for a determination.

III. GOVERNING LAW

The Zoning Board is empowered to grant area variances pursuant to Section 7-712-b of the N.Y. Village Law and Section 197-75 of the Village Code.

In considering applications for area variances, the Board is required to weigh the benefit to the applicant against the detriment to the health, safety and welfare of the community, while considering the following five factors: (1) whether the variance will cause an undesirable change in the character of the neighborhood or a detriment to nearby properties; (2) whether the benefit can be achieved by a feasible alternative; (3) whether the variance is substantial; (4) whether the variance will have any adverse physical or environmental impacts; and (5) whether the alleged difficulty was self-created (which shall be relevant but shall not necessarily preclude the variance).

The Board is charged to grant only the minimum variance necessary and to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Finally, the Board is empowered to impose reasonable conditions to minimize any adverse impacts from the variance.

IV. FINDINGS AND CONCLUSIONS

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

¹ The application was originally made and noticed for additional variances for rear yard (dune crest) setback relief based on an outdated location of the dune crest. After the surveyor updated the location of the dune crest, the need for such relief was eliminated and withdrawn from the application.

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1. *Character of the Neighborhood:* Although the coverage nonconformity will have some impact on the character of the neighborhood, by setting a possible precedent for future nonconformities, that impact is mitigated by the circumstances herein, including the fact that the proposed deck and pool are of a modest size and common location (oceanside) for oceanfront properties.

2. *Alternatives:* The applicant has a front yard deck and pool, but the benefit sought by the applicant is an ocean-side deck and pool. There is no feasible alternative to achieve this benefit without the requested relief. *Baker v. Brownlie*, 248 A.D.2d 527, 529 (2d Dep't 1998).

3. *Substantiality:* With respect to coverage variances, the Board views relief of this magnitude to be 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:* Under the circumstances, the benefits to the applicant outweigh the detriment to the neighborhood.

7. *Minimum Variance:* The variance is the minimum necessary to achieve the benefits sought.

The Board therefore grants the requested relief from Section 197-8.C. of the Village Code to allow a coverage of 24.7% where 20% is permitted, as depicted on the survey of the property drawn by Nathan Taft Corwin, III Land Surveyor, dated August 25, 2005 and last updated on June 22, 2023 ("Final Plans"), subject to the following additional conditions:

V. CONDITIONS

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

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. The variances granted herein shall terminate unless a building permit is issued within one year from the date hereof.

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.

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Motion was made by Mr. Piering to adopt the determination **Lee & Helena Galperine, 319 Dune Road (905-18-2-21)** as written; seconded by Mr. Badzik and unanimously carried 4 ayes, 1 nays, 0 absent.

HOLDOVERS:

2. Westhampton Country Club, 35 Potunk Lane (905-009-03-023.01) Applicant requests permit from the Zoning Board of Appeals under §197-29 C(1) for proposed reconstruction of a staff housing building for a preexisting nonconforming membership golf club, and variance from §197-29 C(2)(c) for proposed staff housing building with a gross floor area of 6,200 SF, representing a prohibited increase in floor area of the previously demolished staff housing building with a gross floor area of 3,330 SF.

Kittric Motz, Esq., appeared on behalf of the application. She submitted on August 7, 2023 a letter regarding the change in the Code that effects this application; the Board of Trustees adopted a new provision in the Code permitting the expansion up to 100% and I previously submitted to this Board a breakdown of the old uses and the new uses and why we needed them and its exclusively driven by the ADA and insurance and privacy to allow individuals to have their own room and bathrooms. They have dormitory style living, and they are requesting permission based on the Code Amendment and other materials to build the structure.

Mr. Piering said they are just seeing this letter.

Mr. Pasca said the application you heard before was put on hold because I told you that the authority to approve it was in question, and the only way to do so was a use variance and the Trustees fixed that and they give you the ability to review it and approve it by Special Permit. So I don't know there is anything new to submit other than the Code change to allow the application to go forward. But, you could close it because you've heard the details of the application we were just waiting for the Code change.

Mr. Piering said I think it's okay to close it. He asked if the other Members were okay with it. He asked if there were any members of the public who wished to comment.

Motion was made by Mr. Piering to close the hearing of **Westhampton Country Club, 35 Potunk Lane (905-9-3-23.1)** for a determination; seconded by Mr. Wittschen and unanimously carried 5 ayes, 0 nays, 0 absent.

3. BMB Enterprises, LLC., 145 Main Street (905-11-2-29) Applicant requests variances from §197-40.1.C. to construct a proposed apartment that has 1,052 square feet of habitable space where the maximum permitted is 850 square feet, and from §197-21 for the proposed apartment use which requires two additional parking stalls, requiring relief pursuant to §197-27.

4. David Weinstein, 7 Meadow Lane (905-010-01-022) Applicant requests variances from §197-1 to legalize an as-built pool cabana with plumbing facilities of 351 square feet where the maximum permitted is 200 square feet.

No one appeared on behalf of the application. Steve Caputo submitted a written request to hold the application over.

Motion was made by Mr. Piering to holdover the application of **David Weinstein, 7 Meadow Lane (905-010-01-022)** seconded by Mr. Musnicki and unanimously carried 5 ayes, 0 nays, 0 absent.

NEW APPLICATIONS:

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5. Court Street Binghamton LLC, 352 Dune Road (905-018-01-008) Applicant requests variances from §197-8 D to construct a two-story addition with a proposed side yard setback of 15 feet where a minimum of 20 feet is required and with a resultant combined side yard setback of 44.1 feet where a minimum of 50 feet is required.

James N. Hulme, Esq., appeared on behalf of the application, together with Mr. and Mrs. Kent the principals of the LLC. This property is located at 352 Dune Road and in the R3 Zoning District, and a 49,000 square foot lot and 63' wide and it is challenged by the development or redevelopment or additions, but we are proposing a modest structure. The current one story home has a side yard setback on the East of 29.1 and 18.7 feet on the West; and we're proposing a second story addition which is new and a small addition on the North of the existing home over the existing deck and a small two story addition on the West over the top of an existing deck which is why the lot coverage is not changing with the additions. The variances needed to achieve that are 15' side yard setback on the West and that setback already exists to a certain extent if you look at the survey there is a small deck on the West which is becoming two stories and there's a structure 15' and that addition is not very wide so the encroachment is not over the entire length of the building, it's only over the small space on that side and the rest is exactly at the same setback as the current house. As I said, the other issue is the total side yard which is directly from the fact that we need a little relief. The change is 3' overall from what is existing and my second story addition needs upgrade.

Mr. Piering asked what the 3' is

Mr. Hulme the difference between the 15' we're asking for and the existing 18'

Mr. Piering asked what will be 15'.

Mr. Hulme said the second story addition in place of the existing deck, and that will be 15' and it looks to be no more than 10' along the width of the property. The need for the relief is driven by the narrow nature of the lot and the property is restrained by wetlands to the South of the existing house and as I said the lot coverage is not changing and it's not expanding out more than it exists.

Mr. Piering asked if the setback conforms?

Mr. Hulme said yes.

Mr. Musnicki said the last paragraph of your background summary, in addition although the architect has identified changes, its anticipated as construction goes forward it may require alterations. Can you elaborate on that?

Mr. Hulme said we are not tearing it down and reconstructing it, but we're hoping the building inspector can give latitude to change things to allow them to do so after consulting with him first. The goal is to maintain as much of the existing house as shown.

Mr. Musnicki said this won't turn into reconstruction?

Mr. Hulme said we don't expect it to, we expect the foundation to be able to hold what we're proposing and if it can't well come back.

Mr. Piering asked if there were any questions or comments. He asked if there was any public comment.

There was no public comment.

Mr. Hulme said for the record, I did receive two phone calls from neighbors across the street who may have a right of way to the bay and they had no issue with the application, they just want to make sure that the easement won't be touched and we are not.

Mr. Piering said if there's an easement you can't change that.

Mr. Hulme said okay. We have side yard setbacks in excess and we should be okay.

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Mr. Musnicki said since the footprint is not changing, there should be no change to the easement.

Jeffrey Kent, 352 Dune Road. He said he owns the property and the easement as far as the survey shows, it is for access on 350 Dune Road on the East of their property which runs along wetlands.

Mr. Hulme said okay, thank you. I wanted to address the neighbors concerns.

Motion was made by Mr. Piering to close the hearing of **Court Street Binghampton, LLC., 352 Dune Road (905-18-1-8)** for a determination; seconded by Mr. Martinsen and unanimously carried 5 ayes, 0 nays, 0 absent.

6. Mary & Kenneth McGorry, 350 Dune Road (905-018-01-009) Applicant requests variances from §197-8 D to construct a dwelling with proposed side yard setbacks of 12.6 and 17.5 feet where a minimum of 20 feet is required, with a proposed combined side yard setback of 30.1 feet where a minimum of 50 feet is required, and with a proposed rear yard setback of 52.2 feet where a minimum of 75 feet is required, and from §197-35 C for a proposed accessory deck setback of 13.9 feet where a minimum of 20 feet is required.

James N. Hulme, Esq., appeared on behalf of the application. My actual client, is the purchaser of this property and we are authorized by the current owner to proceed; the current owner is the McGorry. I brought it in the current owners name and they had to authorize me to proceed. We are looking to remove this home that exists on the property and replace it with a house designed by Rocco Lettieri and we submitted those plans. It's located in the R3 and on the bay side of Dune Road and it is challenged by the wetlands, it is 55,000 square feet in area but only 28,000 in upland area and as with the property next door, it is interesting that the wetlands are on the street side and the effect pushes the redevelopment closer to the water. What exists is a one story frame house, garage, decks and the easterly deck has a .5' setback and a frame building which has plumbing, a spa and curbing. The current coverage is 8.5% and the wetlands on the South forces the Northern development. It is about 93' wide it is a narrow lot and challenging to fit a house. What is a proposed is a two story frame house, pool and water side deck and if you look at the new survey most of the new structure fits within the borders of the current development and the overall coverage is reduced to 7.3% and we're retreating, one way is the water side is moving 10' further from the bay and that increases the rear yard setback and we are eliminating the .5' deck on the East and coming to a more reasonable 12.6' setback and then a 17' setback on the other side. As I indicated before, the current structures go within a .5' to the East and 7.6' to the West and we need total sideyard relief and the rear yard is increasing to 52.2' and the more appropriate setback on the bay is 50' rather than 75' but the Trustees have not changed that Code yet which is the need for this variance. The last variance was the accessory structure 13.9' and that's in contrast to the existing home and its challenged by a number of things, one is the access to 352 Dune Road which is the adjacent property and that is accessible only across this property pursuant to an easement and that further makes it difficult to move our development to the South because if we do we run into their right to get to the property. Between the wetlands and the access driveway, and that's shown on the survey. I believe its consistent with the easement granted to the property and that constrains this property significantly and the owners can't do anything to impact that easement to get on to their property. We're not in full compliance but there are reasons why we can't be and it will be better than the existing structure, and depending on your thoughts our variance degree may change and I put this into my submission for an interpretation about the small lot exception and if they meet those elements and if you parse that statute there are four or five elements; this particular property was in a deed from 1953 forward and as you may have seen it was not owned separate and apart from the adjacent properties but it didn't meet the definition of a small lot; the second is that it has not changed in size or dimension and every deed that transferred it to today; the third is individually and separately owned from any other lot was not the case until 1986 and it was not a small lot it met the Code requirements that it was in common ownership and the Code changed to make the lot width from 75' to 100' and at that time the Code change made it a small lot because it no longer met the lot width. So I present whether or not should this be entitled to small lot relief because of that scenario and it doesn't eliminate variances but it reduces the variances need by 4' or 5' and we'd still need all of the variances, they would not be as large.

Mr. Musnicki said I agree it does qualify for small lot relief, however it is from the street side at 93' and in my math it reduces to 18.6 on side yards.

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Mr. Hulme said yes. We're 17.5' compared to 20' and to 18.6' it's a little over one foot.

Mr. Musnicki asked if you can or cannot build with the 18.6' side yards, isn't that something you can work with?

Mr. Hulme said yes, but its smaller and we're reducing the coverage so we're making it smaller than what exists so we're trying to maintain an appropriate size for the neighborhood and the house even with this relief wont look overly massive; there is a lot of glass and its turned the second floor to the first floor there is a lot of open space to make it appear smaller. If you are inclined to grant the relief you wont see a house that appears as big.

Mr. Musnicki asked if the overhangs are shown on the survey?

Mr. Hulme said yes, it's shown in the lot coverage calculation.

Mr. Musnicki asked if they are reviewing a footprint or if the overhangs are shown?

Mr. Hulme said you took them to the ground, that is the footprint.

Mr. Piering asked if they talked about the 17.5' setback, what is the other side, 12.6'?

Mr. Hulme said yes.

Mr. Piering said that's a much larger percentage.

Mr. Hulme said yes but today its 7' so it's a substantial retreat.

Mr. Badzik said are you comparing the west to the east?

Mr. Hulme said no the East is 12.6' and currently is 15.1' but the deck is at .5' so we're not moving back to the house, but we are eliminating the deck on the property line. The other side is at 17.5' and the house itself is 23.6' but the garage is at 7.6' so we're 2.5' times what it is now.

Mr. Pasca asked if there is a practical reason it can't be centered?

Mr. Hulme said the easement is part of that concern for the existing driveway.

Mr. Pasca said he can't see that easement on the survey.

Mr. Piering said that's something we need to see.

Mr. Pasca asked if the Easterly neighbor is raising a question, and that's fair to ask and if there's a reason it can't be centered we need to make a record.

Mr. Hulme said we will look at that and I did not look at the setbacks on either side.

Mr. Piering said you are starting from scratch and asking for a lot of relief.

Mr. Hulme said they will look at it and the centering might work.

Mr. Piering said they would like to see that and with new construction we have to come as close as we can to the setbacks in the Code.

Mr. Hulme said we are building a new home, but we have to consider we are retreating from what is there today.

Mr. Piering said yes, and we take it very seriously.

Mr. Hulme asked to hold it over.

Mr. Musnicki said if you are able to get the small lot benefit, and if you are able to decrease the side yards, the house is still 56' wide and that's a substantial house on the beach.

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Mr. Hulme said yes, I understand your point.

Mr. Pasca said we discussed this last year, with a house on 95 Dune Road and the issue of automatic relief, the automatic relief is a safety valve and when they argue they want another relief on top of that so measure it from automatic relief something is lost. It is a double variance, automatically given and requested and you can ask for it but mathematically it has to be taken into account for the automatic relief. From a character of the community the setbacks are being relieved twice in that math.

Mr. Hulme said he views it differently, and the automatic relief is the required setback and we're asking for relief from that.

Mr. Pasca said yes, it's for the property not the district. You get the automatic relief under the statute but the setbacks are being reduced.

Mr. Hulme said yes, but I am looking for a 17.6' setback whether it's measured from 20' or reduced does applying the reduction harder to get the variance?

Mr. Pasca said no. When you do the math, to say it's only a variance measured from a setback that's automatically relieved and so, it's not quite apples to apples to say 20% compared to the relieved setback and it's now a 50% variance compared to the true setback. It's the request on top of the automatic relief. We just went through it a year or so and I wanted it to be clear.

Mr. Hulme said that analysis shouldn't make the relief harder.

Mr. Pasca said I don't meant it that way.

Mr. Musnicki said he'd like to see the envelope with and without the small lot relief and the front and rear yard so we can look at that.

Mr. Piering asked if there was any public comment.

Mr. and Mrs. Kent, 352 Dune Road. They are the adjacent owners and the properties have historically been connected and common owners and our house was built in 1977 and at that time there was an easement granted to 352 Dune Road to have access over the driveway of 350 Dune Road and I brought surveys which may help the Board and have an idea of what I'm referring to. He said the rendering he took was small and I think its accurate and as you can see the house is cited blocks the driveway and the purchasers attorney is a joint attorney and I understand the septic has not been designed and that's larger than the footprint of the house and I don't think that's accurate and there are other options and it's a large house and the current garage that exists and the closets part is just a few feet from our property line and the driveway is shared and I did share with the purchasers and Mr. Hulme that there are other options in terms of the plan and the site and the sanitary system and around it because they have uplands by Dune Road and some property on Dune Road to separate the sanitary system and I'm concerned for our parking and emergency vehicle access and the garbage pick up which don't come to our house and the proposal will find their parking and access will be limited as proposed too. So hopefully they can shrink the footprint and the house is beautiful and the location of the house and I know the Easterly neighbor is concerned and if the sanitary is up by Dune Road I don't mind if they move closer to our property.

Mr. Pasca asked where the septic system is going?

Mr. Hulme said it has not been designed yet, it's with the Engineers.

Mr. Kent said it's in the packet.

Mr. Pasca said I think you agreed to show the easement for the driveway, can you show the sanitary system too that is a factor.

Mr. Hulme said his design of the sanitary system are different by architect and engineer. There are easement issues and I don't believe we need relief for them and I wanted to get a design before we started proposing it and I told Mr. and Mrs. Kent that the engineer is aware of the

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easement and he knows he can't impact the driveway but I can try to push him to design it and give us feedback.

Mr. Pasca said if it's impacting the house location it will be relevant.

Mr. Hulme said he likes the suggestion of moving it up to the road. He will look into that for the next hearing.

Motion was made by Mr. Piering to holdover the application of **Mary & Kenneth McGorry, 350 Dune Road (905-18-1-9)** to September 21, 2023; seconded by Mr. Badzik and unanimously carried 5 ayes, 0 nays, 0 absent.

7. Jim Badzik, 27 Sunswyck Lane (905-015-04-003) Applicant requests variances from §197-1 to construct an accessory building with plumbing facilities of 1,399 square feet where the maximum permitted is 200 square feet, and from §197-35 A to construct the accessory building within the front yard (corner lot) where not permitted.

Dean VanTassel, Architect appeared on behalf of the application. Mr. Piering stated that one Board Member, Jim Badzik has recused himself as this is application. Mr. VanTassel said there is an existing art studio constructed in the 1970's and what they are seeking to do is move it from the rear yard to the second front yard and it will be elevated to conform to FEMA by 3.5' and his client seeks to add plumbing to the existing structure. There are two front yards and it's a corner lot and they existing historic trees which flank the art studio where it exists and cannot be moved or relocated and Ms. Hess using the art studio has a request for plumbing for convenience because it's set away from the house and to clean her art supplies. It's too small to accommodate her art production and she is a local artist and the space is very tight and impossible to complete some tasks. We would like to future proof it to elevate to FEMA and make sure it is not prone to flooding and in its location today it's the lower part of the property so by relocating it to Seafield Lane we have to elevate it to conform to FEMA. The character of the neighborhood and the neighboring home 97 Seafield is 18' from the street and 10' from the property line and the proposed art studio is 33' from the street and we would create a vegetated buffer to shield it from Seafield and there is a hedge that exists today but we would add more to it to reduce the visibility from the street and the actual backside of the art studio would have a shed that is lower and would face Seafield Lane. The impact of the street is less because of the design and in regards to the area variance there are five factors there is no undesirable change, the street view is limited and we're removing a gate and putting in more privet hedge to fill it in and mask the structure. The existing grade increases in its proposed location so it's less impactful and because of a lot of the historic trees on the site there are limited locations to where we can move it, no matter what we do in terms of additions or modifications we have to lift it to make it FEMA compliant. Is it substantial, it's always an art studio and it's one story with an attic and no cooking or sleeping so it will never be a guest house and the use will continue that way. There's no adverse impact because we're making it FEMA compliant and saving the historic trees on the site and is itself created, yes she's an artist but she needs more space and needed by the applicant

Mr. Musnicki asked if it's a use variance or area variance?

Mr. VanTassel said it is an area variance.

Mr. Musnicki asked the first floor elevation? 4' above grade?

Mr. VanTassel said yes, and we'll feather it out and it elevates and its impact or view from the street or grade will be softer as you go higher.

Mr. Musnicki asked the finished elevation?

Mr. VanTassel said it is 10'. The building itself at finished floor is 10' and then we'd have two steps to grade that will feather and soften. The ridge will be under 20'.

Mr. Musnicki said okay.

Mr. VanTassel said it is less than 20'

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Mr. Musnicki said the challenge is that it is substantial to go from 200' to 1,400 square feet.

Mr. Pierings said the 200 square feet is with plumbing, without plumbing they are not limited to that 200 square feet.

Mr. VanTassel said yes, that's correct. That would be the limitation only for plumbing.

Mr. Piering said the limitation is only 200 square feet because of plumbing, it's not the size. There are two front yards so you're asking for a front yard variance for a side yard because Sunswyck is the front yard and the house is setback so it's a side yard, How far back are you from the property line?

Mr. VanTassel said 20'.

Mr. Piering said if this was a true side yard you would not need a variance for that relief, correct?

Mr. VanTassel said the shed is a ramp to the building to sit it further back the main structure is further than 20'.

Mr. Piering asked if they are okay with, if this is approved it cannot be habitable space and there will be covenants in place for that. If it does get approved that's an absolute covenant on the property.

Mr. VanTassel said yes.

Mr. Musnicki said I know there is a challenge with the art studio and the landscape challenges, what in your drawings is the largest structure that you can put in that location?

Mr. VanTassel said the arborist came to the site and he talked about the root system and given what it is based on what we have is too tight and so the alternative is to squeeze up the footprint and that would limit the use of it. I don't have an exact number.

Mr. Musnicki said okay.

Mr. Piering asked about the plumbing, will it be a sink and toilet?

Mr. VanTassel said that's correct. It's bare bones it's really to clean the supplies and clean up around the studio and use the bathroom if needed. The locations are the same to the house distance and it's a hardship to go back and forth.

Mr. Piering said we are familiar with the site and the trees on the site. What kind of trees are they?

Mr. VanTassel said they are Norway Spruce and we looked at a lot of locations and deliberated on the impact of moving it to different locations.

Mr. Piering asked if you'd need a variance without a corner lot?

Mr. VanTassel said that's true, we'd only need a variance for the plumbing.

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

Mr. Musnicki asked him to articulate the side yard argument, it's 50' but you're looking for 20' there has to be an argument to that.

Mr. VanTassel said the argument is if it was not a corner lot, and we're holding to the 20' that would be if it was a side yard and that's the location that we chose because we can hold to the 20' and that's what it would be if this was a side yard and not a corner lot.

Mr. Piering asked if there were any other questions or comments. He opened the hearing to public comment.

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Michael Nissen, 97 Seafield Lane. He said that he just became aware of the proposal two days ago and its impactful to then neighborhood and his house and the applicant claims the proposed relocation of the art studio is in keeping with the character of the neighborhood and there are no other house son Seafield Lane anywhere near that, except for my house. It's an extreme exception but it functions as a front yard on Seafield Lane. In terms of the benefit to the applicants, yes its important to keep the trees I don't know they need to make it this large and move its location, its sort of a commercial use and that's unnecessary and I have had to remove trees to install a pool and things like that and we're quadrupling the size of the structure and its new and we're not moving a shed and I understand there are rules about sizes and its not a shed. This will change the character of the neighborhood except for my house there are no others on the street like this and this problem is self-created and they knew the rules; it is a front lot on Seafield Lane and the setbacks are not within them. My house which I plan to live in forever, the dining room will look at this new structure and I don't think that's reasonable to build something so large on the front of the street unnecessarily close to the road. I am sure if someone purchased my house they'd move it 50' and I don't think we should have another like mine across the street and I would strongly oppose the proposal.

Mr. Piering thanked Mr. Nissen.

Donald Steinert, Nancy Steinert and his son, Donald at 96 Seafield and they face the existing barn. Over the years we've had a good relationship with the applicant and Mr. Badzik told them they were moving the barn to Seafield Lane and it was better for them and we're fine with it behind our house at this scale but it would be impossible if it gets four times larger and four feet higher it will look into my bathroom and bedroom for option two. We want to let you know option two is not possible unless they scale it down and move it further North on the property line.

Mr. Piering said we're not discussing option two.

Mr. Steinert said he realizes that. Again, it was referred to as a barn and the barn with the proposed plans even on Seafield Lane is as big as my house at 96 Seafield Lane and I know the other attorney talked about commercialization and rental, and I realize they can't and one day we all wont be here and there will be a new owner. Is there a proposed shower?

Mr. Piering said no.

Mr. Wittschen said there will be a covenant.

Mr. Steinert asked about a driveway or pedestrian path?

Mr. VanTassel said no, and we're closing the gate and the access from Seafield Lane will be removed. We don't have the trees on the site.

MR. Piering said judging by what's there now I am sure there will be a lot of trees.

Mr. Steinert said there are a lot of trees and the new house on Sunswyck and Seafield took down nine trees but I think there is a lot of room to modify the plans and I was hoping Mr. Badzik would show us the plans and my doors open to talk and he's a private citizen first and he can apply for this but this size and magnitude is very large. Think of this on Main Street getting four times larger.

Mr. Piering said the issue here, if this was not a corner lot and this was yourself putting it in the side yard it would not need a variance.

Mr. Steinert asked if the Chairman is lobbying for this?

Mr. Piering said no he is not.

Mr. Steinert said it sounds like you are lobbying for it. It's not being expanded next to my property line and you can see into a bathroom and that's option two.

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Mr. VanTassel said it's not really an option it was more a diagram to show how big it would be in its existing location and how they can't fit in the trees.

Mr. Steinert said I realize now why you told me about relief because of the trees and you can move more North East and she won't have the hardship for the bathroom.

Mr. Piering said no matter what is decided among the neighbors there's still relief needed. He asked if there were any other questions or comments.

Peter O'Rourke 103 Seafield Lane said he was wondering if the proposed size at 1,440 square feet which is larger than this room so the ridge will be very high and I know you're saying its within the standards and putting it that close to the road no matter how much privet you put in it will be seen and with 97 Seafield already close to the road it will be out of character with the neighborhood. I don't think 97 Seafield Lane should factor in and it was built before the road was constructed and having two structures fairly even or parallel will look unusual and we don't have anyone else that close to the road and I think 1,440 square feet might be necessary but its out of character for the neighborhood and I don't understand the plumbing consideration. If you're going to have plumbing it's very close to a habitable space and I know there is a condition that it can't be habitable space and that's wishful thinking in 20 or 30 years from now. Not many will want a 1,400 square foot art studio, they'll want a guest house and I think the size is in excess of what's necessary and I get you don't want to remove the trees but if there are options to move it elsewhere or take down trees or reduce the size in its location or take space elsewhere in the business district and not in your backyard. A lot of us would like to walk to work and sometimes its asking too much of your neighbors to look at such a larger structure on the street.

Mr. Piering thanked Mr. O'Rourke.

Joy DeVries, 105 Seafield Lane. The idea of two houses very close to the road, the carriage house has been 150 years and we have had a lot of change on Seafield Lane and everyone has been conscious of the community and we have the windmill that was moved and a big change for Seafield Lane and to put this on top of the road will impact that street corner and the four stop signs and make it look more congestion and it will look like another house on the property and it's right on the road. It will impact the community and I'm opposed to this.

Mr. Piering thanked Ms. DeVries.

Mr. Nissen asked if they could set it back a lot further I understand it's a side yard, but if it were setback further it may not be as much of a problem.

Nancy Steinert, 96 Seafield Lane said she doesn't understand because of FEMA the size of the structure has to be elevated.

Mr. VanTassel said the reconstruction requires it to conform to FEMA. We are not changing the overall height, we're not going over the 20' which is the requirement on the accessory structure right now it's 16' from grade to the top of ridge and then it will be less than 20' its about 3.5' to conform to FEMA. But its not perceivable because the grade is higher in its location.

Ms. Steinert said okay. First of all, my issue is that its almost as large as our house and it will be 600square feet less than our house and you're putting it right on the road. Esthetically how will it look; the height, the width.

Mr. Piering asked if they got renderings? Can you give them the renderings.

Mr. VanTassel only sent the survey.

Ms. Mackie said he's only required to send the survey.

Mr. VanTassel said the lower part faces Seafield Lane.

Ms. Steinert said if there is going to be plumbing will be the sanitary system be located and can you tell me where it'll be?

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Mr. VanTassel said yes.

Ms. Steinert said it should move in and maybe closer to the main house and their grounds are magnificent but there must be a way to scale it down and move it off the street so it's not so congested.

Mr. Musnicki said I am hearing the neighbors speak to the location and the size, and asked Mr. VanTassel if he'd talk to his clients and see if there is the possibility to relocate it and to bring the size down.

Mr. VanTassel said yes, he will.

Mr. Piering said a rendering will help too for the neighbors to see.

Mr. VanTassel apologizes about not sending that out.

Mr. Musnicki said there is not a more historic street in this Village and a lot of history on it especially at this corner so I think this requires a lot of thought.

Mr. Piering said we are going to hold this over to September. So if anyone has anything to submit or add you can tonight, or at the next meeting.

Mr. Nissen asked when that is.

Mr. Piering said it is the third Thursday in September, he is not sure of the exact date.

Ms. Mackie said it is Thursday, September 21.

Motion was made by Mr. Piering to holdover the application of **Jim Badzik, 27 Sunswyck Lane (905-015-04-003)** to September 21, 2023; seconded by Mr. Musnicki and unanimously carried 4 ayes, 0 nays, 0 absent, 1 recused.

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