**ZONING BOARD OF APPEALS**
**SATURDAY, NOVEMBER 18, 2017**
**3:00 P.M.**

**Present:** Chairman Robert Treuhold, Charles Mott, T. David Mullen, Bruce Peiffer, Brendan Ryan, and Village Attorney Richard DePetris

**Absent:** Alexander Ames

**1)** Mr. Treuhold brought the meeting to order. He said there was a quorum present and asked for a motion to approve the minutes of the **October 14, 2017** meeting.

**MR. MOTT MADE A MOTION TO APPROVE THE MINUTES OF THE OCTOBER 14, 2017 MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**2)** Mr. Treuhold said the next meeting would be held on **Saturday, December 16, 2017, at 3:00 PM.**

**3)** Mr. Treuhold explained that the applicants for the first item on the agenda, **Sandacres Associates Inc.**, had requested an adjournment.

**MR. RYAN MADE A MOTION TO ADJOURN THE APPLICATION OF SANDACRES ASSOCIATES INC. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**4)** Next on the agenda was the application of **Lee Sossen and Sherri Williams** for a setback variance to 19.5 feet from northerly line for proposed tool house and a setback variance to 32.2 feet from Jessup Avenue for proposed screened porch addition to existing house. Premises are known as **35 Old Meeting House Road. SCTM #902-3-2-34**

Architect **Diane Herold** was present to represent the applicants. She explained that the property was located in the A9 district and was a very severe triangle shape between two streets. When she met with the Building Inspector she was told that the structures being proposed should be situated either on the North side or the East side of the property because the house faced Old Meeting House Road, and because the swimming pool was already situated on the Jessup Road side of the property. She explained that the tool house required relief of 5.5 feet to build 19.5 feet of a side yard setback, when the required side yard setback is 25 feet. She wanted the board to be aware that 5.5 feet is about 20% of the required set back. She said that 32 SF of the 220 SF.

building is in violation. On the screened porch, she was requesting relief of 7.8 feet to build 32.2 feet from the street front yard setback, when the required set back is 40 feet. She said 66 SF. of a 400 SF. building was in violation. She explained that the tool house was located at the end of the driveway which makes it accessible, and behind the rear of the house. It will be used for display and storage of a 17' restored 1890 Adirondack boat, which is now in the garage. The screened porch is on an existing deck off the kitchen, dining and living room, making it the appropriate location. There are A/C units and other mechanicals on the south side of the house making it difficult to put the screened porch in that area. Ms. Herold submitted a survey, and photo showing her client's property as well as the neighbor at 33 Old Meeting House Road. The neighbor's house is setback and overlooks her client's swimming pool and the area for the tool house. The survey shows her client's swimming pool on the Jessup Avenue side of the property which differs from all the neighbors to the north who have their swimming pools on the Old Meeting House side, again making her client's property unique. They have arborvitae screening on the north side, as well as the Jessup Avenue side of the property. She wanted the Board to realize that her clients were being hampered by the shape of their property and the two front yards. The screened porch did not require a height variance. The Board wondered if there could be another location for the proposed tool house, or if it could possibly be made smaller. Ms. Herold said it was in conformance with the square footage of a tool house. The Board brought out that it was in a nonconforming location. Ms. Herold also explained that whether they got the variance or not, her clients were working with a landscape architect to extend the arborvitae around to create privacy for themselves as well as their neighbors. Ms. Herold said her clients told her that they were going to speak to their neighbors about the tool house and the screened porch. Ms. Herold suggested that they move the tool house over two more feet closer to the swimming pool, reducing their request to some extent. The Board felt the application should be adjourned in order to provide a revised survey showing the new location of the tool house moved closer to the swimming pool, as well as the revised landscaping that would be on the neighboring property line. Ms. Herold said she would submit an updated survey.

**DECISION: MR. TREUHOLD MADE A MOTION TO ADJOURN THE SOSSEN/WILLIAMS APPLICATION TO THE DECEMBER MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**5)** Next, was the application of **James Rybakoff** for a setback variance to 18.2 feet from northerly side line for proposed patio extension, a setback variance to 22.3 feet from southerly side line for proposed generator, and for a lot coverage variance to 20.3% in order to permit existing deck extension and proposed patio extension, generator and outdoor kitchen. Premises are known as **37 Shinnecock Road. SCTM #902-10-3-13.1**

Attorney **Kittric Motz** was present for the applicant. She started by making a correction on the application saying that it asked if a permit had been granted or refused. She said no permit had been granted but apparently there was an application for the patio and deck extension, for which Mr. Nowak wrote a letter dated June 14, 2017, saying the permit would be denied, and he did not

understand the lot coverage, and they needed to explore variances. Mrs. Motz said this was when she got involved with the applicants. She explained the application and said that right now there was variance relief in place for the property that permits lot coverage to be 18.7% and her clients were looking for an additional 1.6% based on the proposed patio addition, generator, decking, and outdoor kitchen. She said it was an undersized parcel in the A8 district which allowed 87,000 SF. per lot. Her client's parcel is only 45, 910 SF. and it narrows toward the back of the property where most of the improvements are proposed, and which helped create their hardships. The deck expansion is to provide more transition space at the rear of the home, and the patio expansion was to make it more useful and safer to walk past their patio chairs. If her clients had the full amount of lot coverage that is required for that district, they would only be at 10.7% lot coverage. The slate walk and patio are at grade level and do not represent any vertical mass. The generator rests on a 25 SF. pad. In the rear where all the proposed structures are to be located, are mature hedges and landscaping surrounding the entire area. The outside kitchen is basically a floor with two waist high walls, and no roof. Her clients propose to utilize the existing gas lines so there will be no portable propane tanks. Mrs. Motz felt that the proposed structures were all customary structures in a residential neighborhood. The property cannot be made any larger or wider. The neighbor most effected by the patio expansion, which is the larger of the improvements, submitted a written letter in support of the application. The other neighbor who borders the northerly property line, has a tennis court that would be closest to the patio, if the patio is allowed to be expanded. No sink or water will be involved in the proposed outdoor kitchen. In reference to the additional decking and steps, Mrs. Motz said they were added within the last 12 months, but the work was done without obtaining a building permit. The Board explained that they generally did not like to grant side yard relief for generators because they are noxious and loud. The Board felt this generator could possibly be moved to the front and still be sufficiently set back from the street, and landscaped. The Board also felt that the proposed extension of the side yard patio for an additional six feet, did not appeared to be justified on such an undersized lot. Mrs. Motz checked to make sure outdoor kitchens were an acceptable use in that area, and it was agreed that they were. The Board pointed out that the outdoor kitchen was not in a conforming location, as the side yard requirement is the A8 district of 35 feet and not 25 feet. Mr. Treuhold explained that the Board would like the clients to come back with a different proposal for the generator, and either withdraw their request for the additional patio space, or come back with a smaller request. They also suggested that the relief for the outdoor kitchen should be re-advertised. The Board wanted to see more information on the pool house and its usage. Mr. Treuhold asked for a motion to adjourn the Rybakoff application to the December meeting.

**DECISION: MR. MOTT MOVED TO ADJOURN THE RYBAKOFF APPLICATION TO THE DECEMBER MEETING UNLESS ATTORNEY MOTZ NEEDED MORE TIME, THEN TO THE JANUARY MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**6)** Next, was the application of **36 Post Fields LLC** for a fence height/visibility variance in order to permit proposed six-foot high stockade fence along northerly line. Premises are known as **36 Post Field Lane. SCTM #902-3-3-86.35**

Property owner **Pasquale Sicuranza** was present for the discussion. Mr. Sicuranza wanted to construct a fence on the northern side of the subject home, which runs contiguous with the Long Island Rail Road. He explained that his request was for safety issues for children, pets and others. He felt that children and pets would not be able to climb a six-foot stockade fence, although they might be able to get over a four-foot fence. He said that behind the rail road track was industrial property, and heavy equipment which was highly visible and could be a dangerous enticement to children. Similar relief had been requested and granted to neighboring Lots 36, 37 and 39 Post Fields. He did not feel that the proposed relief would have any environmental or other impact on the character of the surrounding properties, the rail road tracks, or create a lessening of any property values in the area. Mr. Sicuranza said he was aware of a letter in objection to his application, that was sent to the Board by Mr. McKennett, saying that the fence had already been erected. He had not had opportunity to see the letter. He then explained that he contracted his landscaper to erect a fence, but told him that he was first going to obtain a permit. It seems the landscaper went ahead and put up the fence without waiting for Mr. Sicuranza to get the permit. He explained to the Board that there is a berm that runs along the Long Island Rail Road and all the fences are constructed on top of the berm. He did not construct the berm. The Village attorney explained that Mr. Sicuranza did not ask for a variance to build a fence on top of a berm, so he would have to amend his application or file a new application. The Board felt that Mr. Sicuranza needed to have a discussion with the Building Inspector. He will also need to submit plans that show the berm, and elevation data, the height of the berm, the grade of the property, who built the berm, etc. It appeared that it is a Long Island Rail Road berm that encroached onto Mr. Sicuranza's property. Mr. Treuhold asked for a motion to deny the application without prejudice.

**DECISION: MR. MOTT MADE A MOTION TO DENY THE SICURANZA APPLICATION WITHOUT PREJUDICE. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**7)** Next, was the application of **William and Kimberly Anderson** for a rear yard variance in order to permit proposed eave encroachments projecting more than 18 inches into the required rear yard. Premises are known as **13 Dune Road. SCTM #902-12-1-9**

Architect, **David Neff**, was present to represent the applicants. He included drawings of the proposed two-car garage. He explained that his client's house had a 70-foot setback and the back of the existing house was built right up against the rear yard setback. In order to get the proposed addition to connect properly, they located the addition right up to the rear setback line as well. They wanted to continue the design of the existing house which had a 36" eave overhang but they reduced the overhang from 36" to 28" to extend it around the back. They felt the continuity really helped the garage blend in. He said there were two corners where the building

abuts the rear yard line, and the code allows an 18" encroachment, but they have a 28" encroachment. Mr. Neff said the building had already been framed, but they could make adjustments if they did not get their requested variance. He also explained that the closest neighbor was over 100 feet away, and to the extent that they did see the house, seeing the matching eave would be better than seeing a clipped eave or smaller one than the existing. The Board explained that although they knew they would need relief, and they could have come before the Board to request relief, it appears they went ahead and did the construction, assuming they could come to the Board after the fact, to request relief. The Board did say that although it was a rather minimal relief request they wanted to make the point that requests for relief should be made before construction, and not after the fact.

**DECISION: MR. MOTT MADE A MOTION TO GRANT THE ANDERSON APPLICATION AS REQUESTED. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**8)** Next, was the application of **Christopher and Michelle Ewan** for a coastal erosion hazard area variance in order to permit proposed reconstruction of existing house and decks the cost of which exceeds 50% of the replacement cost new (to wit, proposed restoration of existing house and decks) with modification as proposed and for a lot coverage variance to 26.1%, a total side yard variance to 59.3 feet and a rear yard (dune setback) variance to the extent necessary in order to permit the foregoing. Premises are known as **88 Dune Road. SCTM #902-13-3-19**

Attorney **Robert Kelly** along with the client's architect **Sal Ionnone** were both present to represent the applicants. Mr. Kelly explained that the existing deck on the south side of the house is located south of the toe of the dune. His clients want to move the house north ten feet further from the toe of the dune, but moving the house was problematic in that the pilings for the existing house go all the way up to the second floor, making it impossible to move the first floor of the house. The applicants are proposing to lift the second floor, put it to the side, and demolish the first floor. Then, moving ten feet to the north, they propose to reconstructed the first floor in the same size and shape as the existing first floor, and put the existing second floor back on top of the reconstructed first floor of the house. There is an existing swimming pool, and garage that would remain unchanged. They are to the north which prevents the applicants from going any further north, but they felt that at least they will be out of the flood zone. The applicants will also do FEMA compliant construction. The deck will be reconfigured, and cut back, but will remain the same square footage. Mr. Kelly explained that the asphalt sport court/driveway, on the east side of the existing house, and solar panels will be removed, as well as the unpermitted pavilion. The Board explained that they did not have a detailed cost estimate of the new construction. The Board felt the application was rather problematic. The Board explained that because of the issues that the Village has had in the past with the DEC, they needed to be very specific and careful with what is requested and/or granted in reference to the coastal erosion hazard area. They explained that Mr. Kelly's clients needed to be careful if they were making variance requests as a reconstruction and not a new construction. The architect explained that they wanted to renovate the house where it stood, but they could not meet the 50%

rule as the house needed so much work. The Board suggested that the applicants meet with the Building Inspector for a discussion of what further information might be needed. Mr. Treuhold asked for a motion to adjourn the Ewan application to the December meeting.

**DECISION: MR. MOTT MADE A MOTION TO ADJOURN THE EWAN APPLICATION TO THE DECEMBER MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**9)** Next, was the holdover application of **Kevin and Barbara Braddish** at **48 Jessup Avenue. SCTM #902-3-3-10**

Mr. Wolfersdorf was present to represent the applicants. He indicated that since the last meeting, the applicants had the surveyor come out and do a new lot coverage survey for their parcel. The relief now requested was only with respect to the spa. The concrete slab and hot tub had been removed. The request to put the spa equipment in the side yard had been withdrawn, as well as the request for the side patio.

**DECISION: MR. MOTT MADE A MOTION TO GRANT A SETBACK VARIANCE TO 15.4 FEET FROM THE SOUTHERLY LINE FOR THE PROPOSED SPA. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**10)** Mr. Treuhold said that the application of **Martyn and Ellen Ball** of **141 Montauk Highway. SCTM #902-4-2-7**, had been adjourned to the January meeting.

**11)** Next, was the holdover application of **160 DQ LLC** of **160 Dune Road, SCTM #902-16-2-2.5**

**Melissa Dedovich** and architect **Alex DeMesa** were present to represent the applicants. She explained that her client's house was granted height relief in 2013 after Hurricane Sandy because it sustained significant damage and had to be lifted and put on pilings. She said they had a letter of non-jurisdiction from the DEC and they were beyond the coastal erosion hazard area. She showed the Board, using drawings, exactly what parts of the house would be rebuilt and what would remain. She showed the proposed north elevation where they were enlarging the dormer, relocating the chimney about five feet and relocating a door. On the southern exposure, she showed that they were enlarging the dormer, and enlarging the existing upper deck with an enclosed frame. She showed a pool house as a detached accessory structure. Ms. Dedovich explained that 73% of the existing house would be remaining, and 96.2% of the existing footprint would be remaining. The house was presently 28 feet high and will not change. Ms. Dedovich wanted it noted that the GFA was approximately 6,700 SF., which would be about half of what would be allowed for their parcel, or 11,250 SF. They explained that they could not drop the height of the house because the first floor already had only eight-foot ceilings and if they dropped them any further it would be unusable. In reference to the second floor, the

applicants were only using the existing volume, and even though the second floor may have appeared to be higher, it was only because of the unusable attic space. Mr. Treuhold asked for a motion to approve the variance application.

**DECISION: MR. RYAN MADE A MOTION TO GRANT THE APPLICATION OF 160 DQ LLC. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**12)** Next, was the holdover application of **Paul and Margaret Whyte** of **202 Dune Road – SCTM #902-16-2-21.**

Attorney **Kittric Motz** was present for the **Whytes**, who were also present. Architects **Stuart Disston** and **Josh Rosensweig** were present, as well as **Charles Bowman** a CEHA expert. Mrs. Motz explained that on November 16, 2017, she and her clients met with Mr. Star, interested parties, and Attorney Robert Kelly. Mrs. Motz briefly explained what transpired during their meeting. She then explained that her clients had made about 20 significant changes and adjustments during the ongoing process of their project. She listed where they started and where they ended up. The floor area of the existing house was explained to be 1,844 SF and it had been reduced by about 400 SF. The house was and still is under the permitted square footage. The lot coverage was proposed at 19.8% and is now at 19.1%. The proposed new cut into the dune was initially 380 CY., and now they are proposing a 147.7 CY. cut into the dune. Mrs. Motz explained that in reference to the swimming pool, it is not considered a new cut, in that they will be utilizing the cut that is already there. They were originally 4.1/2" below the maximum height, and they are now proposing to raise the house 4" which will further reduce the amount of cut into the dune which is needed for the swimming pool. They do not need any height relief except for the new porches in the required yard for the front part of the house. In the easterly side yard, they reduced the overall side yard request from 9.1 feet to 1.1feet by shrinking the house. Their walkway is now 14.9' feet instead of 50 feet. Originally, the proposed house had a little master bedroom wing that stuck out to the side, and now the whole house is a box that is 56 feet wide and the depth of the house has been reduced 13 feet. The owners are also eliminating a few break-away walls that were next to the carport, which the Building Inspector asked them to eliminate. Mrs. Motz reviewed the plans in her packet showing that the now the proposed house was raised 4" and the pool was shifted 8.3 feet to the east. By raising the house 4" and relocating the swimming pool 8.3 feet to the east, they reduce the amount of cut into the dune. In reference to the Conner walkway, her clients will be constructing a compliant walkway to the Conner's deck and any steps that may be required leading down. Mrs. Motz showed the Board the two decks that were being eliminated, and the Conner deck that would remain.

Attorney **Robert Kelly** came forward in opposition to the Whyte's application, representing **Mr. Edelman**, the neighbor. Mr. Kelly explained that the main concern of his client was the size of the house, which they felt had a proposed 26% increase. His client felt that the original proposal was rejected by the Board, and all the Whytes did was take 12% off the size of a house that was already rejected by the Board for its size. He felt that the house had a 46% increase in size,

going from 1,211 SF. to the proposed 1,768 SF footprint. His client wanted to see a reduction in the size of the footprint.

The Board wanted to establish that the actual heated walls of the house were 1,211 SF. Mrs. Motz information packets explained that, with the 25% non-major addition, the new footprint would be 1,513 SF., and adding a full second story would make a total 3,027 GFA. Mrs. Motz submitted two full size sets of plans for the Village files. The Board suggested that Mrs. Motz consult with the Building Inspector, show him the new plans, ask him what additional information he may require or need for the DEC, and then reconvene at the December Zoning Board meeting, at which time the application will either be closed for a decision or the Board will receive any necessary new information to make the final decision.

**DECISION: MR. MOTT MADE A MOTION TO ADJOURN THE WHYTE APPLICATION TO THE DECEMBER MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**The meeting was adjourned.**

**Respectfully submitted by:** _____ **File date:** 12/15/17