

**ZONING BOARD OF APPEALS
SATURDAY, MAY 18, 2013
4:00 P.M.**

Present: Chairman Ogden Lewis, T. David Mullen, Alexander Ames, Robert Treuhold, Brendan Ryan, and Village Attorney Richard DePetris

Absent: Charles Mott

1) Chairman Lewis brought the meeting to order and explained that the next meeting would be on **Saturday, June 29, 2013, at 3 P.M.** He then made a motion to approve the minutes of the April 27, 2013 meeting.

DECISION: MR. LEWIS MOVED TO APPROVE THE MINUTES OF THE APRIL 27, 2013 MEETING. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter on the agenda was the appeal of **Mahnaz Moinian** from a determination of the Building Inspector denying a coastal erosion management permit for reconstruction of a gazebo/pavilion. Applicant requests reversal of such determination or in the alternative, a variance to permit such reconstruction. Premises are known as **188 Dune Road. TM #902-16-2-14**

Anthony Pasca was present for the applicant. He explained that 2 of the 4 posts of the gazebo were undermined during Hurricane Sandy, and they sank down about 18", causing the top frame to snap off. The application was to 'jack-up' the 2 posts, flood the footings, tamps them down, and then refasten them to the frame. The chairman explained that the board saw their requested work as a repair not needing a variance. The board wanted to know if there was a better kind of footing that would be less intrusive to the dune or a better solution. Mr. Pasca said they would not make modifications. **Bill Darla**, the property manager, came forward and explained that the footings acted as an anchor to keep the wind from taking the structure and letting it blow away. He said that during the hurricane, they did exactly as they were supposed to and the anchors held it in place. Mr. DePetris suggested that they speak to the building inspector and work out conditions to a coastal erosion management permit. The applicants felt that would put things off for another 6 weeks. The board did not feel that would be too long a wait. The board suggested they set up a meeting as soon as possible with the building inspector and that the applicant did not necessarily have to come back to this board.

DECISION: MR. LEWIS MOVED TO ADJOURN THE APPLICATION TO THE JUNE 29 MMEETING. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

3) Next was the application of **81 Dune Road LLC** for a setback variance to 35.1 feet from the Quogue canal and 7.1 feet from boat slip for proposed swimming pool deck addition, for a setback variance to 14.9 feet from boat slip for proposed exterior stairs, and for a lot coverage variance to 21.9% for proposed lot coverage or 21% for existing lot coverage. Premises are known as **81 Dune Road. TM #902-13-1-22.**

Attorney **Kittric Motz** was present for the applicant, as well as **Mrs. Bensen**, the property owner. Mrs. Motz explained that they wanted to address the swimming pool deck on the canal side and the lack of stairs and egress from the pool deck down to the ground level. There was also an error in the calculation of the lot coverage. She wanted the board to know the lot coverage was 21% and they wanted an additional .9% for their undersized lot. They were seeking to make a 7' northerly extension of the swimming pool deck. She explained that the proposed addition to the deck would not extend beyond the boathouse, so there would be no line of sight problem for the neighbor looking to the west as their existing water views would not be blocked. Because the pool cannot be built grade level, FEMA regulations would apply. Mrs. Motz submitted photos for the board. She explained that the additional 285 SF. would be almost 1% but her clients would not even need the variance if the property was not an undersized lot. They would not need the setback for the stairway if it were not for the boat slip that intersected the property in the middle. Mrs. Motz explained that the problem probably came about because the surveyor did not realize that the walkways around the house were elevated, and since the walkways were less than 4 feet they were not included in the lot coverage calculation, even though they should have been.

DECISION: MR. LEWIS MOVED TO GRANT THE VARIANCES FOR 81 DUNE RD AS REQUESTED. MR. TREUHOLD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4a) Next was the application of **3G Holdings LLC** for a side yard variance to 17.3 feet from southerly line for proposed garage addition to existing house and if necessary to 16.4 feet from such line for related proposed roof overhang, a side yard variance if necessary to 24.5 feet from northerly line for proposed roof overhang related to proposed addition to existing house, a total side yard variance in order to permit the foregoing, and a setback variance to 0.8 feet from northerly line in order to maintain and repair tool-house. Premises are known as **34 Lamb Avenue. TM #902-9-3-3.**

Attorney **Kittric Motz** was present for the applicants, along with their architect, **Phil Pankiewicz**. She turned the board's attention to their packets showing the substantial garage/shed that her client proposed to remove. Her client's proposed instead to add a one car garage on the south side of the property. She included the eave overhang in her

variance request and the board agreed that she should have. Their rear addition is conforming in every way except for the 6" of eave that intrude into the required side yard. Attorney Motz explained the property and location of the addition as well as the requested variances with the use of the survey. She also explained that their reason for wanting to keep the little shed was because the family had little children, and they wanted a place to keep dangerous and noxious materials under lock and key away from the children and not in the garage with the children's bikes etc.

Betty Crowley the neighbor at **32 Lamb Avenue**, came forward to see what the plans entailed and how, if it all, it would impact her property. The board temporarily adjourned the **3G Holding LLC** application so Mrs. Crowley could confer with the applicants and attorney Motz.

5) Next was the application of **Sandacres Associates Inc.** for relief from a condition imposed in the July 25, 2008 decision of the Board of Appeals in order to permit further subdivision of the subject parcel and to permit the existing house and the existing cottage to be maintained and used for one family dwelling uses on Lot 1 of the proposed further subdivision. Premises are known as **Lot 11 on the Subdivision Map of Sandacres Creekside Section Two** and are located at the terminus of **Sandacres Lane and Creekside Lane. TM #902-7-1-4-30.**

Attorney **Robert Kelly** was present for the applicants. He explained that in 2004, the Zoning Board approved the subdivision of the property into 4 lots with a variance to keep the main house and the cottage on lot 11, which is actually now lot #1. The property owners did not complete that subdivision because they would have had to tear down the garage which had a music studio in it. In 2008 they came back to the board for a 2 lot subdivision. Mr. Kelly said the applicant had always been under the impression that they could go back to the 4 lot subdivision. They were asking to create a third lot which, they promised, would never be subdivided again. The lot they were proposing to create would be 2.4 acres. Mr. DePetris, the village attorney, suggested that a written decision be drawn up to alleviate any confusion in specific wording in the future. Mr. DePetris explained that they would be doing an abandonment of lot 11 of the file subdivision map of Section Two, so they can file a new subdivision map; Section Three, dividing what was then lot 11 into 2 lots. Mr. Kelly agreed.

DECISION: MR. LEWIS MOVED TO ADJOURN THE SANDACRES ASSOCIATES INC. APPLICATION FOR A WRITTEN DECISION. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4b) In reference to the application of **3G Holdings LLC.**, the board recalled attorney Motz to find out if they had finished their discussion with the neighbor, Mrs. Crowley. Mrs. Crowley explained that after looking at the plans, she felt the application would be of great benefit to the applicant and not a detriment to the neighbors and had no objection to the requested variances.

DECISION: MR. LEWIS MOVED TO GRANT THE VARIANCES REQUESTED BY 3G HOLDINGS LLC. MR. MULLEN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

6) The last matter on the agenda was the revised application of **David Marr** for variances in order to permit proposed relocation and elevation of three buildings (2 story garage & apartment; 2 story house, 1 story house) and proposed deck additions thereto as shown on survey last revised April 10, 2013 and plans prepared by applicant's architect, including variances to alter buildings used for a nonconforming use, a front yard variance to 35.1 feet for building C (relocated/elevated 1 story house with proposed deck), a rear yard/water setback variance to 41.6 feet for building B (relocated/elevated 2 story house with proposed deck), a side yard variance to 10 feet, a rear yard/water setback variance to 19.6 feet and a height variance within required yard for building A (relocated/elevated 2 story garage & apartment with proposed deck). Premises are known as **61 Dune Road. TM #902-13-1-12**

Attorney **Lisa Kombrink** was present for the applicant, who was also present. After giving a brief history of the property, Ms. Kombrink explained that her client proposed to place all 3 structures on pilings in accord with FEMA regulations. Particularly the garage apartment suffered from significant damage from Hurricane Sandy as well as the middle house. They were proposing to shift the houses from their current locations. She explained that for the house closest to the canal and the front house (house "A") they would be lessening the degree of nonconformity. The garage with the apartment, which is currently only 2.8 feet away from Mr. Hoogkamp's property line, and 19'6 feet from the canal, would end up being 10 feet from the property line while the setback from the canal would remain the same. They also proposed to add a deck on the first floor and a deck on the second floor as well. With respect to the middle house (house B), the 2 story, single family dwelling, was proposed to be placed on pilings and moved over slightly south and then west. The setback from the canal would remain the same, at 41.6 feet. They were also proposing to add decks on the first and second floors of house "B". With respect to the one story house closest to Dune Road, her client wanted to put it on pilings and shift it slightly north and over. The existing dwelling is 13.8 feet from the side yard and they were proposing to make it a conforming setback to 25 feet off the property line and the setback from Dune Road would be increased from 29 feet to 35.1 feet for the steps, with the main structure being 40 feet from Dune Road. They also propose to put a deck on the west side of that structure.

The architect, **Robert Gruber**, explained that House "A" would be lifted to elevation 13 feet above sea level, house "B" would be lifted to 12 feet above sea level, and house "C" would be lifted to 11 feet above sea level. The first story decks would be at the same level as the first floor of the houses. Ms. Kombrink explained that the benefit to the applicant outweighs any detriment to the surrounding neighborhood or community. They would be decreasing the degree of nonconformity and they would be bringing the houses into conformity with FEMA regulations and updating the septic systems as well.

David Marr, the property owner, explained that he was fond of small cottages in the village and wanted to improve his property by updating the septic and lifting the house so they would not suffer the same kind of impact again as they did from Hurricane Sandy.

Mr. DePetris requested that the architect supply a letter in reference to each of the 3 buildings saying what the existing heights are, per the zoning code definitions, and what the proposed heights would be, per the zoning code definitions. The letter should also contain how much the height is proposed to be increased for each of the buildings. It would help give the board a solid picture of the property. The board also wanted copies of the decisions in reference to any height variances received by the neighbor, Mr. Hoogkamp.

Attorney **Theodore Sklar**, representing **Steven Weiner**, a neighbor directly across the canal, at **36 & 38 Beach Lane**, came forward to present his information in opposition to Mr. Marr's application. Mr. Sklar felt they were looking at a very complex application with an undersized, nonconforming lot, having 3 dwellings where only one is required. He felt it was very difficult to figure out the heights that the applicant was requesting from the survey submitted, and he felt that they had not asked for all the variances that the lot required. He explained that by moving the structures toward the center of the property from where they are already located, and then raising them, Mr. Marr would be severely impacting Mr. Weiner's view of the ocean. Mr. Sklar felt one of the problems with the Marr application was that Ms. Kombrink used decimals while the survey is stated in feet and inches making it hard to do the calculations. He also felt it would have been helpful if Mr. Nowak would have been present. He was worried that maybe the houses were going up higher than they had to in order to meet FEMA regulations, and wondered if there were alternatives to having peaked roofs. He also explained that there were not only variances needed from the rear yard setback but also from the canal for dwelling "A". Mr. Sklar felt there was also a height variance needed, though not requested, for dwelling "B" because part of the roof was in a required yard. In reference to dwelling "C", he felt that part of the roof encroached into the front yard by about 5 feet and it would require a height variance of about 1.2 feet, which was not addressed in the Marr application. Mr. Sklar also felt that if decks were to be added to all three of the buildings, under the village code, Mr. Marr would have to get variances for each deck as each would be considered an enlargement, and no variance had been requested. He also included that according to village code, in order to move or relocate the dwellings on the property, Mr. Marr needed to request variances because of having 3 dwellings on one parcel. He felt that perhaps keeping all three buildings might not be the right decision for that parcel. He wondered if there were alternatives in granting new septic for 3 residences, and felt the Marr application did not address alternatives.

Attorney **Kittric Motz** co-counsel for **Mr. Weiner** came forward to say that Mr. Weiner was aware of Mr. Marr's wanting to comply with FEMA and raise structures in accord to regulations. By spreading out the houses in their proposed elevated status, it would impact Mr. Weiner's ocean view. She wondered if an alternate site plan had been considered where the houses would not be so spread out on the parcel, blocking Mr. Weiner's

ocean view. She requested that the matter be adjourned until alternate site plans could be designed that would mitigate the impact, and preserve some of Mr. Weiner's ocean view.

Greg Hoogkamp of 63 Dune Road came forward as the neighbor to Mr. Marr, and in support of the Marr application.

Jeanette Obser came forward to ask the board to consider the area of small cottages that were present in that part of Dune Road. She explained that she and many others would not like to see that aspect changed.

The board requested that Ms. Kombrink provide them with better, more accurate elevation plans of all three houses on the Marr parcel, showing all 3 decks. They wanted to see the proposed height in relation to the zoning code definition. They also suggested that Ms. Kombrink consider if any of the other dwellings, besides building "A", need height variances, or at least show on their plans what the heights are within the required yard, if they do not believe they need variances. Ms. Kombrink explained that she had not intended to mislead the neighbors or the board in reference to any height information. She explained that because Mr. Marr and Mr. Weiner were in litigation in reference to Mr. Weiner's previous zoning application, she felt that that situation might be playing into the objections they heard towards Mr. Marr's application. She included that they were not moving all 3 dwellings to the middle of the property to block Mr. Weiner's ocean view. They were shifting structure "A" a little less than 8 feet. All 3 structures were covered by certificate of occupancy, and they wanted to maintain the character of the property, with the small cottages, by not tearing them down and building one large house. She also included that by changing to flat roofs it would be a whole different look for the property, which her client did not want. Ms. Kombrink said she discussed the decks with Mr. Nowak before the applications were submitted, and he confirmed to her that the decks were not considered habitable space. In reference to the septic upgrade, she felt it could only be a benefit for the community.

Mr. Marr explained that he had applied back in 2005 to raise the houses in place but they were turned down. He has since been having conversations with all his neighbors in reference to what he proposed to do. Mr. DePetris commented that there was no apparent reason why the middle house could not be 50 feet from the canal so that it at least conformed dimensionally, and felt that this was something they needed to address.

DECISION: MR. LEWIS MOVED TO ADJOURN THE MARR APPLICATION TO THE NEXT MEETING. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

Respectfully submitted by:  File date: 6/11/13