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INCORPORATED VILLAGE OF WEST HAMPTON DUNES
ZONING BOARD OF APPEALS

October 5, 2019
10:00 a.m.

Meeting held at
906 Dune Road, West Hampton Dunes, New York

MEMBERS PRESENT:

- Eric Saretsky - Acting Chairman
- Harvey Gessin - Member
- James Cashin - Member
- Kenneth W. Siegel - Member

ALSO PRESENT:

- Joseph Prokop, Esq. - Attorney
Representing the Village
- Angela Sadeli - Village Clerk
- Aram Terchunian - Commissioner of Wildlife
Protection

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A P P E A R A N C E S:

Howard Freedman, Applicant
846 Dune Road, West Hampton Dunes

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APPLICANT

PAGE

846 Dunes, LLC

4-17

SCTM #0907-2-01-04

1 (*The meeting was called to order, after the
2 Pledge of Allegiance, at 10:10 a.m.*)

3 MR. PROKOP: I just wanted to check, at the
4 end of this --

5 MEMBER CASHIN: What page, Joe?

6 MR. PROKOP: Yeah, I'll give you the page.
7 So I included a couple of things beginning on
8 Page 3. The first is we had a discussion about
9 the Three-Tenths versus the Four-Tenths, so I put
10 that in here, that it's supposed to be -- the
11 calculation was supposed to have been done under
12 the Four-Tenths Rule, which ends up with minor
13 encroachment, but that we determined that it was
14 de minimus. It was like six inches, I think, is
15 the way that it came out. So that's the end of
16 the last paragraph on Page 3.

17 The next one, on Page 4 at the top, I didn't
18 have a lighting plan, so I don't know who did it,
19 but you could just -- we could add that
20 information to the decision later.

21 And then I included --

22 MEMBER GESSIN: I'll move up.

23 (Aram Terchunian Entered the Meeting)

24 MR. PROKOP: On Page 5 are the conditions.

25 MEMBER CASHIN: I still don't get No. 5, but

1 if everybody else does, that's fine.

2 MR. PROKOP: What's number No. 5?

3 MEMBER CASHIN: This is 5.

4 MEMBER SIEGEL: It's parking in this, in
5 this road here, not --

6 MR. PROKOP: Okay. So let me -- yeah, let
7 me just say, A, since we're -- since the property
8 was never subdivided and it's still subject to the
9 conditions of the June 6th, 2018 --

10 MEMBER CASHIN: Oh, you just copied them?

11 MR. PROKOP: Yeah, I just copied them in
12 here.

13 MEMBER CASHIN: Oh.

14 MR. PROKOP: So what I could do is I could
15 just say -- so this is exactly the language from
16 the prior decision, so we probably don't want to
17 go through that again. But, if you want, if you
18 want B, on Page 5 near the top could just say that
19 all conditions of the June 6th, 2018 variance
20 approval remain as conditions of this approval.
21 We could just say that and then not list them.

22 MEMBER CASHIN: That's fine, yeah, okay.

23 MR. PROKOP: That way we don't have to
24 rehash the whole thing.

25 MEMBER CASHIN: Yeah, I just don't want all

1 of these.

2 MEMBER SIEGEL: It has to do with parking in
3 this zone here, not counting as parking like
4 actual spots. This is five spots here and just --

5 MEMBER CASHIN: I think it just needs to be
6 punctuated or --

7 MEMBER SIEGEL: These are not the right
8 spots.

9 MEMBER CASHIN: Okay. And then there's one
10 other one I didn't understand.

11 MEMBER SIEGEL: Although they can park here.

12 MR. PROKOP: Yeah, right, it probably needs
13 punctuation, you're right, but that's the way that
14 it came out.

15 MEMBER CASHIN: And what does No. 2 mean?

16 MEMBER SIEGEL: "Screening, which is that
17 would be front and rear property lines."

18 CLERK SADELI: Ken, she can't hear you.

19 MEMBER SIEGEL: I'm just -- "Screening,
20 which is that would be front and rear property
21 lines," comma, "the adjoining property lines."
22 What does that mean?

23 MR. PROKOP: That's the way we picked it up
24 in the other decision. I'm not -- I'm not sure.
25 I'd have to go back and see what the plan was.

1 ACTING CHAIRMAN SARETSKY: I think that this
2 had something to do with screening along the side.

3 MEMBER SIEGEL: Yeah, screening here.

4 ACTING CHAIRMAN SARETSKY: Right, screening
5 here and here.

6 MEMBER CASHIN: So maybe this says screening
7 is required front and rear property lines and the
8 adjoining property lines. I guess that's what it
9 means.

10 MR. PROKOP: Okay.

11 MEMBER SIEGEL: Because that's what it
12 showed.

13 MEMBER CASHIN: I guess it means it needs an
14 "and" also.

15 ACTING CHAIRMAN SARETSKY: Right, "and".

16 MR. PROKOP: Okay. But that's all going to
17 come out.

18 MEMBER CASHIN: Yeah, yeah, okay, that's
19 fine.

20 MR. PROKOP: We'll look at that in the other
21 decision.

22 MEMBER CASHIN: Since we already voted on it
23 the other way, right?

24 MR. PROKOP: And then -- yeah, that's it.

25 MEMBER SIEGEL: So if we're -- if we're on

1 Page 3, where we're at the Four-Tenths instead of
2 the Three-Tenths, it comes out that this pool is
3 six inches over where we would --

4 MR. PROKOP: I think that's the calculation
5 we did the last time, so it's less than a foot.

6 MEMBER SIEGEL: That's what we're agreeing
7 to now?

8 ACTING CHAIRMAN SARETSKY: Well, that's what
9 the variance is for, for the extra six inches.

10 MS. SADELI: Right.

11 MEMBER SIEGEL: This whole entire variance
12 that we're here to either --

13 MR. PROKOP: No. The variance is because he
14 was -- he was denied because it's an expansion of
15 a preexisting nonconforming use and structure, and
16 because any changes in the property have to come
17 before the ZBA.

18 ACTING CHAIRMAN SARETSKY: So the fact that
19 it's coming before us we understand. I guess the
20 question, though, is if it was six inches
21 narrower, it would be theoretically as-of-right?

22 MR. PROKOP: Did you do that calculation,
23 Aram?

24 MR. TERCHUNIAN: Yeah, I did that
25 calculation.

1 MR. PROKOP: It's like six inches, right?

2 MR. TERCHUNIAN: It's six, yeah.

3 ACTING CHAIRMAN SARETSKY: So my -- I guess
4 my question is, and I'm not sure if this is what
5 Ken's is, I don't want to speak for him, if it was
6 six inches narrower -- I mean, it's a narrower
7 pool to begin with. If it was six inches
8 narrower, you know, they wouldn't have to be
9 before us for the variance, other than --

10 MEMBER GESSIN: No.

11 ACTING CHAIRMAN SARETSKY: Because they'd
12 come before us anyway because of the plots.

13 MR. PROKOP: No, because it's -- they would
14 be, because it's a preexisting -- it's an
15 expansion of a preexisting nonconforming use and
16 structure. That's --

17 MR. TERCHUNIAN: To answer your question,
18 they would be before you anyway --

19 ACTING CHAIRMAN SARETSKY: Okay.

20 MR. TERCHUNIAN: -- but not for that
21 specific issue.

22 MEMBER GESSIN: For any issue.

23 ACTING CHAIRMAN SARETSKY: So --

24 MR. TERCHUNIAN: But they're before you
25 because they must come before you for anything.

1 This was part of the list, that six inches.

2 ACTING CHAIRMAN SARETSKY: Understand.

3 MR. TERCHUNIAN: And if that -- but that's
4 the only thing that would change.

5 ACTING CHAIRMAN SARETSKY: But let me ask --
6 let me ask the question a different way, then. If
7 down the road someone else has a nonconforming lot
8 and wants to do the same thing, or something
9 similar, and they want to use this as a precedent,
10 if it's -- if it was six inches narrower, it would
11 be essentially, in other words --

12 MEMBER SIEGEL: No precedent.

13 ACTING CHAIRMAN SARETSKY: There would be no
14 precedent.

15 MR. TERCHUNIAN: I don't -- no, I don't
16 agree with that, because it all depends on the
17 facts of the case that's before you. You can't
18 just boot-strap something --

19 ACTING CHAIRMAN SARETSKY: I'm not saying
20 boot-strap it, but --

21 MR. TERCHUNIAN: -- one to another.

22 ACTING CHAIRMAN SARETSKY: I'm only -- I'm
23 only trying to say like are we creating a problem
24 for down the road, or no?

25 MR. TERCHUNIAN: For six inches, you're not

1 creating a problem.

2 MEMBER GESSIN: We have plenty of side yard
3 variances.

4 ACTING CHAIRMAN SARETSKY: Okay.

5 MEMBER GESSIN: Right?

6 MR. TERCHUNIAN: You're not -- yeah. You're
7 not creating a -- six inches is not a problem
8 anyway.

9 MR. PROKOP: I know we -- there's been
10 discussion about this, but I don't think you're
11 creating a problem.

12 ACTING CHAIRMAN SARETSKY: Okay.

13 MEMBER CASHIN: Right. But what he's saying
14 and what is right is the next time Jim Hulme comes
15 in here -- Jim Hulme? Jim --

16 MR. TERCHUNIAN: Yeah.

17 MS. SADELI: Yeah.

18 MEMBER CASHIN: -- comes in here, he's going
19 to say, "Well, you did it on" -- "you did it on
20 this one." I mean, that's going to happen.

21 MR. TERCHUNIAN: And because the fact that
22 this case warranted that decision, and the facts
23 of another case may not warrant that six inches.

24 MEMBER CASHIN: Understood.

25 MR. PROKOP: It's more important that we

1 have the -- to me, my view is it's more important
2 that we have the discussion about the Three-Tenths
3 versus the Four-Tenths, because this gives the
4 Building Inspector a guide about how to -- how to
5 work with future applications. So that's really
6 important language.

7 ACTING CHAIRMAN SARETSKY: Right. But
8 between you and Aram, you're in agreement that the
9 Four-Tenths is the rule that should be used,
10 right?

11 MR. PROKOP: Yes.

12 MR. TERCHUNIAN: Yes.

13 MEMBER SIEGEL: Because you're going by the
14 main structure, not anything accessory to the main
15 structure?

16 MR. TERCHUNIAN: Correct.

17 ACTING CHAIRMAN SARETSKY: So that's --
18 okay.

19 MEMBER SIEGEL: So that's the future.

20 MR. PROKOP: That's something important we
21 can add in the future.

22 MEMBER SIEGEL: That's the future for The
23 Dune.

24 MEMBER CASHIN: And that is a precedent that
25 we would be falling back on.

1 ACTING CHAIRMAN SARETSKY: If you went back
2 to the Three-Tenths, you'd be doing something
3 different.

4 MEMBER SIEGEL: Correct.

5 ACTING CHAIRMAN SARETSKY: You wouldn't be
6 following the new rule, basically.

7 MR. PROKOP: No. Bob knows now in the
8 future that he's supposed to apply the
9 Four-Tenths, not the Three-Tenths.

10 MEMBER GESSIN: On this applic -- on this
11 property.

12 MR. TERCHUNIAN: On this property and on the
13 basis of the principal structure.

14 ACTING CHAIRMAN SARETSKY: Okay.

15 MR. TERCHUNIAN: Not accessory structure.

16 MR. PROKOP: This calculation from now on is
17 supposed to be on the main structure, not --

18 MEMBER SIEGEL: Not the decking.

19 MR. TERCHUNIAN: Right.

20 ACTING CHAIRMAN SARETSKY: So, I mean, I
21 guess, then let's go back to -- he has a letter
22 that says this is okay with the neighbor on the
23 west side.

24 MEMBER CASHIN: Right.

25 ACTING CHAIRMAN SARETSKY: So if the six

1 inches is not an issue in your -- Joe and Aram's
2 mind --

3 MR. PROKOP: It's not an issue.

4 ACTING CHAIRMAN SARETSKY: Then, I mean, I
5 guess, I don't have a problem either. I mean, I'm
6 not sure about you guys.

7 MEMBER CASHIN: I'm okay with it.

8 ACTING CHAIRMAN SARETSKY: So what, then,
9 are we approving, as far as a variance goes, other
10 than that?

11 MEMBER SIEGEL: So someone should make a
12 motion.

13 MR. PROKOP: You're approving that -- an
14 expansion of the pre-existing nonconforming use,
15 and you're approving the landscape plan and the
16 lighting plan.

17 ACTING CHAIRMAN SARETSKY: Right. No, the
18 conditions are all things to help make it --

19 MR. TERCHUNIAN: So if you're comfortable
20 moving forward, you would make -- someone would
21 make a motion to accept this decision as written
22 and amended.

23 MR. PROKOP: With these changes.

24 MR. TERCHUNIAN: With these changes. And
25 then you need a second and then a vote.

1 ACTING CHAIRMAN SARETSKY: Okay.

2 MEMBER SIEGEL: Just before we do that, is
3 there a copy of the lighting plan somewhere?

4 MS. SADELI: Yeah.

5 MR. PROKOP: I'm going to run to another --

6 ACTING CHAIRMAN SARETSKY: I see -- I don't
7 think we have anymore questions.

8 MEMBER CASHIN: Yeah, Joe. Thanks.

9 ACTING CHAIRMAN SARETSKY: Thanks. Do you
10 want to be here for that?

11 MR. PROKOP: Yeah, I'm sorry. I was
12 committed to be in two places.

13 ACTING CHAIRMAN SARETSKY: All right. I
14 like that we got first dibs.

15 MR. PROKOP: Okay. Thank you.

16 ACTING CHAIRMAN SARETSKY: Okay. Thank you.
17 Bye, Joe.

18 MR. PROKOP: Okay.

19 MEMBER SIEGEL: Thank you, Joe.

20 MR. FREEDMAN: Thanks for all your time on
21 this.

22 MEMBER GESSIN: You have it?

23 MEMBER SIEGEL: Who just gave me all these
24 papers?

25 MS. SADELI: It's right here.

1 MEMBER GESSIN: Me, me. You want that?

2 MS. SADELI: Is that the lighting plan?

3 MEMBER GESSIN: Yes.

4 MS. SADELI: Okay.

5 MEMBER SIEGEL: That's the rest of it.

6 That's something that we -- that was Harvey's
7 paperwork, and this is, also. So we're approving
8 this lighting plan today as well?

9 MS. SADELI: The lighting and the
10 landscaping.

11 MEMBER CASHIN: Yeah, we looked at that last
12 time, didn't we?

13 ACTING CHAIRMAN SARETSKY: I think so.

14 MEMBER SIEGEL: Okay. So this goes like
15 this. So you guys looked at this? Everybody was
16 happy with it?

17 MEMBER GESSIN: Yeah.

18 ACTING CHAIRMAN SARETSKY: It looked fine.

19 MEMBER SIEGEL: Thank you, guys. Just
20 wanted to see it. It's all on the house, there's
21 no like ground lighting showing.

22 ACTING CHAIRMAN SARETSKY: Right. It's all
23 down-lighting.

24 MR. TERCHUNIAN: It's all down-lighting.

25 MEMBER CASHIN: I make a motion that we

1 accept the -- what is it called?

2 MR. TERCHUNIAN: The decision as written and
3 amended.

4 MEMBER CASHIN: Decision as written and as
5 amended at this meeting.

6 MS. SADELI: Seconded by?

7 MEMBER SIEGEL: Second.

8 MS. SADELI: Ken.

9 MR. TERCHUNIAN: Call the question.

10 ACTING CHAIRMAN SARETSKY: All in favor?

11 MEMBER CASHIN: Aye.

12 MEMBER SIEGEL: Aye.

13 ACTING CHAIRMAN SARETSKY: Aye.

14 MR. TERCHUNIAN: And any opposed?

15 ACTING CHAIRMAN SARETSKY: Any opposed?

16 (No Response)

17 (Harvey Gessin Recused From Vote)

18 MR. TERCHUNIAN: Unanimous. Okay. And
19 you'll stamp that file in your office on Monday.

20 MR. FREEDMAN: Thank you.

21 ACTING CHAIRMAN SARETSKY: I make a motion
22 to close the meeting. Can I make the motion?

23 MEMBER GESSIN: Yeah.

24 MEMBER SIEGEL: I guess I'll second.

25 MEMBER CASHIN: And what if we don't second,

1 do we have to stay here?

2 MR. TERCHUNIAN: You have to stay all night.

3 MEMBER CASHIN: All right, I'll second.

4 ACTING CHAIRMAN SARETSKY: All right. Thank
5 you.

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C E R T I F I C A T I O N

STATE OF NEW YORK)

SS:

COUNTY OF SUFFOLK)

I, LUCIA BRAATEN, a Court Reporter and Notary Public for and within the State of New York, do hereby certify:

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on October 5, 2019.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of October, 2019.

Lucia Braaten

Lucia Braaten

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