

INCORPORATED VILLAGE OF WESTHAMPTON DUNES

ZONING BOARD OF APPEALS

General Meeting

October 29, 2022

9:00 a.m.

906 Dune Road

Westhampton Beach, New York

MEMBERS PRESENT:

Eric Saretsky - Chairman

Joseph Mizzi - Member

Jeff Farkas - Member

ALSO PRESENT:

Joseph Prokop - Village Attorney

Angela Sadeli - Village Clerk

TAKEN & TRANSCRIBED BY:

Amy Thomas - Court Reporter

1 (Whereupon the meeting was called
2 to order at 9:04 a.m. and the Pledge of
3 Allegiance was recited.)

4 CHAIRMAN SARETSKY: All right. Do
5 I call the meeting to order, Joe.

6 ATTORNEY PROKOP: Yes. We need to
7 just make sure that we have proof of
8 mailing.

9 CLERK SADELI: Yup, I have the
10 proof of mailing.

11 ATTORNEY PROKOP: And the
12 publication that it was published?

13 CLERK SADELI: I have the
14 publication that it was published and
15 the proof of mailing.

16 CHAIRMAN SARETSKY: Good.

17 ATTORNEY PROKOP: Okay. So we
18 should open the public hearing.

19 CHAIRMAN SARETSKY: Okay. You go
20 first, you're it.

21 MR. HULME: Good morning. Thank
22 you. I'm here on the Crane matter, 662
23 Dune Road. We're looking to make a
24 small addition to the house as you may
25 know from the submission that I

1 provided. We have almost a 30,000
2 square foot lot, which is almost one
3 and a half times larger than what the
4 area is required under zoning, and
5 existing 21.76 percent lot coverage, a
6 three-story building, a pool, a deck,
7 and a pool house. As indicated in the
8 plans that we submitted, what we
9 propose to undertake here is a small
10 one-story addition on the west side --
11 west side of the existing house to
12 provide a -- I guess I'm supposed to
13 call it a principal suite as opposed to
14 a master suite -- on the first floor of
15 the house.

16 MEMBER MIZZI: Primary.

17 MR. HULME: Primary, that's it,
18 thank you. That's the word I was
19 looking for -- actually looking for.
20 And that would add another 581 square
21 feet to the coverage on the property
22 bringing the lot coverage to 23.7
23 percent when the required is 20
24 percent. So anyway, to put this all in
25 context, I don't know if I submitted

1 this before, but this is an aerial
2 photograph of the property in question.
3 Joe, would you like?

4 ATTORNEY PROKOP: Thanks.

5 MR. HULME: As you can see, our
6 property is fairly oversized relative
7 to the adjacent properties, and so we
8 think could very easily accommodate a
9 slightly -- a slight increase in
10 coverage without having any negative
11 impact on the neighborhood as a whole.

12 Quickly running through the five
13 factors. First of all, the character
14 of the neighborhood, nothing about this
15 addition will change the character of
16 this house let alone the character of
17 the neighborhood. And alternatives,
18 you know, our clients are getting
19 older, would like to have a bedroom on
20 the first floor. This is the ideal
21 spot to put it relative to the internal
22 construction of the home, and so in
23 order to do this there's really no
24 other way to achieve this based on the
25 configuration and the location of the

1 house and the existing conditions on
2 the house. Substantial nature of the
3 variance, it is more than nothing, but
4 it's only another 500 or so square feet
5 on a 30,000 thousand square foot lot,
6 so it's not huge. Physical
7 environmental impact, under SEQRA, an
8 area variance is a Type II action which
9 requires no further environmental
10 evaluation, which suggests that the
11 impact of an area variance such as this
12 would not contribute to any increase in
13 environmental or physical impact to the
14 property. And just as a practical
15 matter, this makes the house more
16 livable, but it doesn't increase the
17 impact of a single family residence on
18 the neighborhood. And the last is the
19 self-created nature of this. Arguably,
20 yes, or it may be, but it's really a
21 function of the regulations as they
22 apply to this particular lot. And to a
23 certain extent it has to do with the
24 changing shoreline. When this house
25 was -- and this home was originally

1 permitted, the lot coverage was, in
2 fact, 20 percent, but you know, the
3 current circumstances now have the lot
4 coverage at 21.76 and that's solely
5 attributable to the retreating
6 shoreline making the property against
7 which you measure the lot coverage
8 smaller. And so we like to -- we hope
9 that someday it will get bigger too,
10 which would then bring the house more
11 in compliance as it pertains to lot
12 coverage.

13 The other thing I would like to
14 point out is just making some estimates
15 of the various houses, 664 which is
16 directly to our west, I estimate their
17 lot coverage to be 21.9 percent, so
18 they're over the 20 percent. And 660,
19 which is to the other side of us, which
20 has a rather large house on a rather
21 small lot, I estimate the lot coverage
22 to be almost 26 percent. So our 23.7
23 percent that we're seeking is certainly
24 within the range of those numbers.
25 Lots further down have various

1 coverages, some of them are a little
2 less than 20 percent, some of them are
3 20 percent, but I guess the point is
4 it's not out of the ordinary to have
5 lot coverages that are in excess of the
6 20 percent in the direct vicinity of
7 this property. So that in a nutshell
8 is the application.

9 CHAIRMAN SARETSKY: Joe, what was
10 the history of lots that shrunk in
11 size, you know, like, this one lost 853
12 square feet, was there any factors in
13 that in things in the past?

14 ATTORNEY PROKOP: No, we never
15 reviewed that. So it's in that area
16 where there's, like, a scarping of the
17 -- there's a scarping of the coast, of
18 the bay boundary by wave action and
19 other things. So basically the sand is
20 being brought out to the area directly
21 off the property, and it's created a
22 shallowing, but I don't think we've
23 ever considered that. I just have two
24 comments about the -- if I could just
25 say preliminarily, so I just -- I think

1 our notice had the correct tax number
2 in it, but your letter has the
3 incorrect tax map number, but -- and
4 then the other thing is I have a note,
5 somebody told me it was R-40. I don't
6 know, it doesn't matter to the
7 application because it's a single and
8 separate lot anyway, we're not going to
9 question that, but somebody who was
10 speaking to me about this, and I don't
11 have a note as to who it was, told me
12 it was R-40, but it doesn't matter.
13 We'll figure that out, it has no
14 bearing on the application. But other
15 than that, I don't have any comments.
16 It looks like everything is okay.

17 CHAIRMAN SARETSKY: I guess my
18 initial concern, of course, is, like,
19 precedent setting type things. You
20 know, the fact that the homes on either
21 side are in similar situations makes
22 it, you know, less of an issue, but
23 where does it start and end, you know,
24 with like we talked about other things
25 unrelated to this property? Joe, I

1 mean, what type of guidance can you
2 give us for these types of things?

3 ATTORNEY PROKOP: I don't see --
4 on this survey, I don't see where the
5 addition is going to be, is it going to
6 be under the house?

7 MR. HULME: The survey that you're
8 looking at is the existing conditions
9 survey. There was another document
10 that was another part of the submission
11 that indicates where, and it's a
12 one-story.

13 ATTORNEY PROKOP: Somebody looked
14 at this and said the side yard is going
15 to be okay?

16 MR. HULME: Yes, according to your
17 building inspector, and I believe
18 according to your code as well. I
19 think it's fine.

20 ATTORNEY PROKOP: You didn't
21 indicate the -- where's the mean high
22 water on the survey? You're saying
23 that the mean high water reduced the
24 size of the property?

25 MR. HULME: It does.

1 ATTORNEY PROKOP: Is it past the
2 property line?

3 MR. HULME: Well, as you can see,
4 the tax map extends into the water, but
5 your code, like the other codes --

6 ATTORNEY PROKOP: Oh, it's on the
7 second, I'm sorry.

8 MR. HULME: It's okay.

9 CHAIRMAN SARETSKY: The neighbors
10 on either side have been notified,
11 right?

12 CLERK SADELI: Yes.

13 CHAIRMAN SARETSKY: And there's
14 been no response?

15 CLERK SADELI: No response, not to
16 the Village.

17 MEMBER FARKAS: Michael Craig is
18 on the west side, I believe.

19 MR. HULME: Yes, he is.

20 ATTORNEY PROKOP: So if we go by
21 the property size, what does the loss
22 of property have to do with the lot
23 coverage?

24 MR. HULME: I'm sorry?

25 ATTORNEY PROKOP: If we're using

1 the size of the lot to calculate the
2 lot coverage?

3 MR. HULME: You're using the
4 upland lot size to calculate the lot
5 coverage. So the lot coverage has
6 increased as a direct result of the
7 loss of shore.

8 MEMBER FARKAS: Is there an
9 elevator in the property?

10 MR. CRANE: There is not one now,
11 we would like to put one in.

12 ATTORNEY PROKOP: The three
13 stories, is this above -- it's three
14 stories above the ground level, or is
15 it including the ground level?

16 MR. HULME: Including the ground
17 level.

18 ATTORNEY PROKOP: And the house is
19 fully sprinklered?

20 MR. HULME: Is the house
21 sprinklered? Does it have a fire --

22 MR. CRANE: So I do not know the
23 answer to that. I have had Bob, the
24 building inspector, in my house, but I
25 do not think we have sprinklers in our

1 bedroom, so on the second floor, no. I
2 would say no.

3 CHAIRMAN SARETSKY: I think it's a
4 requirement of a certain size on the
5 third floor.

6 MEMBER MIZZI: Yeah, the third
7 floor -- it could be a three-story
8 house, but it's technically a
9 mezzanine.

10 MR. CRANE: The third floor, it's,
11 like, a loft.

12 MEMBER MIZZI: Yeah, if it's,
13 like, a certain percentage of the floor
14 below it. Like, I have a three-story
15 house, but a mezzanine doesn't require
16 sprinklers.

17 MR. HULME: That's correct.

18 CHAIRMAN SARETSKY: What do you
19 guys -- what do you think? I mean,
20 again, my greatest concern is just
21 precedent setting. I don't think it's
22 -- it doesn't seem to be really --

23 MEMBER MIZZI: How did you
24 estimate that the neighbor was 21 point
25 something percent?

1 MR. HULME: I went on the GIS
2 site, I took the tax map, I subtracted
3 from it the part of the tax map that
4 was under water, and I did the
5 calculation based on the numbers that
6 are available on the town's GIS.

7 MEMBER FARKAS: The extension
8 is --

9 MEMBER MIZZI: It sounds very
10 precise, 21.76.

11 MR. HULME: Yeah, I was an
12 engineer before I was a lawyer, so
13 that's my fault.

14 ATTORNEY PROKOP: How did you know
15 what was under water? Where did you
16 get that from?

17 MR. HULME: I calculated.

18 ATTORNEY PROKOP: From what?

19 MR. HULME: From the map.

20 ATTORNEY PROKOP: What map?

21 MR. HULME: From this.

22 ATTORNEY PROKOP: There's no
23 scale. Oh, there is a scale.

24 MR. HULME: There is a scale, and
25 there's a measuring tool.

1 ATTORNEY PROKOP: You're looking
2 at this from, like, the space station
3 or something. Where does this -- how
4 would you know looking at this --

5 MR. HULME: I can see the
6 shoreline and I can see the tax map
7 line.

8 ATTORNEY PROKOP: But is this high
9 tide or low tide, or is it mean tide?

10 MR. HULME: Well, I don't know. I
11 don't know that, but I think that in
12 the calculation -- the point is that
13 the house to either side of us, if you
14 just look at the aerial photograph,
15 you'll see -- you'll be able to
16 understand that it is larger. And
17 admittedly this is just a rough
18 calculation, but it's accurate enough
19 to draw the conclusion that both of
20 those houses are, in fact, over their
21 lot coverage.

22 MEMBER FARKAS: The extension, the
23 one-story extension really is 700
24 square feet of added space, but they're
25 taking off I think your

1 air-conditioning and the porch is
2 covered.

3 MR. HULME: And then there's kind
4 of a bow window that's being subsumed
5 into the --

6 MEMBER FARKAS: It's only 15 feet
7 wide, and it's tucked in because this
8 part of the -- just from an aesthetic
9 point, this part of the house already
10 projects out in the back, so all
11 they're doing is kind of filling in --
12 you could see it better on this
13 picture. And they're just kind of
14 putting it --

15 CHAIRMAN SARETSKY: I guess my
16 question -- and you know, Joe, you
17 would normally ask this, but, like, if
18 the addition were to come further
19 forward and not be as wide, it's still
20 the same problem, it's a lot area
21 coverage issue, not a -- not a setback.

22 MR. HULME: Right, it's a
23 coverage, it's not a setback issue,
24 it's not an anything issue, other than
25 coverage.

1 CHAIRMAN SARETSKY: So the
2 setbacks, I mean, again, on this side
3 where they're doing it are certainly
4 not an issue.

5 MR. HULME: Right. And whatever
6 the lot area requirement is, this lot
7 is clearly substantially larger than
8 the lots in the neighborhood. So as
9 far as a precedent, I mean, I think you
10 could find that because this lot is
11 oversized in that sense that this
12 doesn't create a precedent for somebody
13 with a much smaller lot.

14 MEMBER MIZZI: I mean, the only
15 counter argument to that is that, you
16 know, people with smaller lots tend to
17 ask for larger lot coverage because
18 their argument is they have a smaller
19 lot, and so if we're saying the biggest
20 lots can get more than 20 percent lot
21 coverage it probably opens the door to
22 people saying, you know, if I got a
23 small lot I definitely should get lot
24 coverage. I'm not objecting to what
25 you said, but I'm just saying it would

1 seem that anybody that has a smaller
2 lot would have an argument.

3 MR. HULME: True. And I might
4 very well try to make that argument
5 myself, but you know, that just seems
6 to me that whether you would grant that
7 or not, allowing that for a smaller lot
8 is more impactful than allowing that
9 for a larger lot because you don't --
10 you don't get, you know, you're not
11 getting really any closer to the
12 neighbors. And often for the smaller
13 lots you would also need setback relief
14 because they're smaller. So there
15 would be other relief involved in that
16 that is not involved in this particular
17 case.

18 MEMBER MIZZI: I saw, like, 19
19 feet or something. Do we know what the
20 -- I hear it's not a -- it's not in
21 question, but I'm just curious what --

22 MEMBER FARKAS: I think it's on
23 there.

24 MEMBER MIZZI: It's on there, but
25 I guess this is --

1 MEMBER FARKAS: This is going to
2 be 20.

3 MEMBER MIZZI: 19 feet. I guess
4 what I was just saying is what's the --
5 where would -- what dimension would
6 that be? Hey, Aram, how are you?

7 MR. TERCHUNIAN: Good morning.

8 MEMBER MIZZI: What dimension
9 would be a problem? How close are we?

10 CHAIRMAN SARETSKY: Is it 15 feet
11 that's the minimum for this?

12 MEMBER MIZZI: It's usually a
13 percentage of the --

14 MR. HULME: I think it's 4/10 of
15 20, which is something less than 20.

16 MEMBER MIZZI: I thought it was
17 4/10 when it's centered, and less than
18 that when it's not.

19 MR. TERCHUNIAN: 3/10 when
20 centered, 4/10 when not.

21 MEMBER MIZZI: Got it. So it's
22 130 feet.

23 CHAIRMAN SARETSKY: So Aram, what
24 we're really talking about is you're
25 familiar with the request?

1 MR. TERCHUNIAN: Yes.

2 CHAIRMAN SARETSKY: So again,
3 we're a little concerned about
4 precedent setting issues. You know,
5 Joe just mentioned that this house is a
6 larger house, it's got the room, but
7 you know, what does it do in a smaller
8 house situation where someone maybe
9 automatically says well, I should get
10 it because I'm a smaller lot. You
11 know, again, they made the point that
12 the houses on either side exceed the
13 lot area coverage by a point and a
14 half, whatever it works out to,
15 something very, very similar. We're
16 sort of caught in the conundrum of, you
17 know, the neighbor on that side is not
18 here to oppose it, doesn't seem like
19 they're objecting to it, they've been
20 notified. It's really, in my opinion,
21 and I don't want to speak for my fellow
22 members here, but you know, how this
23 goes down the road for the next one.

24 MR. TERCHUNIAN: Sure. So you
25 were reviewing the side yard setbacks?

1 MEMBER MIZZI: Looks like 38.
2 4/10 of 130 is 52, and this looks to be
3 38, so 38 and 19 is 47 -- 57, so it
4 would be okay.

5 MR. TERCHUNIAN: 30 percent of 130
6 is 39.

7 MEMBER MIZZI: I thought you said
8 40 percent.

9 MR. TERCHUNIAN: Oh, because it's
10 not centered, yeah.

11 MEMBER MIZZI: So 52, 38 and 19 is
12 57, so --

13 MR. TERCHUNIAN: So you're good.
14 And you're not past the minimum, which
15 is good.

16 CHAIRMAN SARETSKY: Also Aram,
17 maybe you could shed some color on the
18 concept of, like, this is an area where
19 they lost 800 and something square feet
20 from the change of the contour of the
21 land. Again, I was asking Joe, like, I
22 don't know if in the history of
23 Westhampton Dunes there's been much
24 consideration for situations like that,
25 but again, I think I'm trying to find,

1 you know, a caveat, whatever you want
2 to call it for why this would be not
3 precedent setting.

4 MR. TERCHUNIAN: Well, I think
5 that Joe will agree that, you know, you
6 want to ground your decision in the
7 five criteria, the first of which is
8 character of the neighborhood. And so
9 if you find, you know, if there's
10 evidence that there is -- there are
11 other properties in the neighborhood
12 that are seeking or already have
13 something similar, that passes the
14 first test.

15 CHAIRMAN SARETSKY: Okay.

16 MR. TERCHUNIAN: And then after
17 that it goes to, you know, the
18 environmental impacts of that request
19 as well as the significance of it. And
20 in addition to that, whether or not
21 what's being asked is --

22 CHAIRMAN SARETSKY: Self-created.

23 MR. TERCHUNIAN: Self-created,
24 right.

25 CHAIRMAN SARETSKY: I mean, you

1 know, yes to self-created, I guess.

2 MR. TERCHUNIAN: That's not
3 dispositive of itself.

4 CHAIRMAN SARETSKY: Right. But
5 the other two probably.

6 MEMBER MIZZI: I mean, I don't
7 think we've -- again, I'm generalizing.
8 The only thing we've considered in the
9 past is trying to not -- like, if we're
10 allowing it over 20, trying to not have
11 it be substantially over 20, and by,
12 you know, 23.7 percent more than 20
13 percent, you know, it's like an 18
14 percent overage of what's permitted.
15 And I do remember on other properties
16 we've have asked people to just look a
17 little harder and, you know, we were
18 inclined to accept, you know, a
19 condition. Are we sure that we're, you
20 know, being as -- making it as
21 efficient as possible? You know, I
22 don't know who wants to take a second
23 look at the interior plan to see if,
24 like, I don't know if -- I don't know
25 what this -- you know, we're adding,

1 like, a front -- a section in the
2 front.

3 CHAIRMAN SARETSKY: I think to
4 your point, Joe, in the past we've
5 looked at other things where is there
6 any other way that some of the items
7 that are calculated in the lot area
8 coverage could be tucked in somewhere
9 or --

10 MEMBER MIZZI: While self-creation
11 is not a problem in itself, it is kind
12 of self-created.

13 MR. HULME: The part that is
14 cutting in here is already covered.
15 It's covering the deck, so that's
16 already existing coverage.

17 MEMBER MIZZI: So the addition --

18 MR. HULME: So the addition is
19 really just this square rectangle here
20 and less that. And because of the
21 retreating shoreline, the existing lot
22 coverage is 21.7, so I would suggest
23 that an alternate comparison would be
24 to compare our 23.7 to the 21.7, which
25 is a much more modest -- by half

1 actually -- increase that we're looking
2 at.

3 MEMBER MIZZI: Again, I'm just
4 thinking out loud, I'm not being
5 objectionable, but, like, are we --
6 also to your point about, like, is
7 everyone going to start saying that
8 their, like, their property line has
9 changed and we have to -- you know,
10 like, as we go down Dune Road everyone
11 is going to say my shoreline changed,
12 and therefore my lot coverage can
13 change, I can add on to my house, or I
14 have a hardship.

15 MEMBER FARKAS: That's a good
16 point.

17 MEMBER MIZZI: And I'm just
18 saying, we may want to think about
19 this, like, let's be careful.

20 MR. HULME: This is very modest, I
21 think, the size. I think that despite
22 the possible precedential value of the
23 decision, each I'm sure Counsel and
24 consultant will tell you that each case
25 has to stand and fall on its own legs,

1 and the fact that somebody else may
2 have gotten something similar, there
3 may be a whole host of reasons why that
4 other application is different than
5 this application. And I have tried to
6 suggest some of them here, the modest
7 size, the oversize of the lot, the fact
8 that we're not seeking any other
9 variances, any other area variances
10 relative to this, the fact that some of
11 this is resulting from a retreating
12 shoreline, and you know, filtering that
13 all through the five tests, which is a
14 balancing test, detriment versus
15 benefit, you know, I don't think
16 there's a lot of detriment. There's a
17 fair amount of benefit.

18 MR. TERCHUNIAN: Well, I'll just
19 offer the following factual
20 observations, and you can put into your
21 deliberations: The first is one by
22 making this extension the parcel
23 actually does become centered, it
24 becomes basically 20 and 20, and so
25 then the 3/10 rule would apply, and it

1 would comply with that, number one.

2 Number two --

3 ATTORNEY PROKOP: Can I just ask
4 you about that? Because it goes to --
5 the principal structure then goes to 20
6 on one side, but on the other side
7 it's --

8 MEMBER FARKAS: You have the pool
9 house, but I guess it's not counted.

10 MR. TERCHUNIAN: Yeah, but it's
11 tied to it, it's not part of it. It's
12 tied to it. Well, then if we follow
13 Joe's analysis, which we can, then it
14 would still be okay because it's less
15 than -- it meets the minimum and it's
16 less than 4/10.

17 ATTORNEY PROKOP: Does that 19
18 meet the minimum?

19 MEMBER MIZZI: Yeah, I was using
20 the 38, which is the 38 to this. I
21 don't know if I'm doing it properly
22 but --

23 MR. TERCHUNIAN: To the deck?

24 MEMBER MIZZI: Yeah, or maybe --
25 because I guess I was assuming this

1 pool house would not be the side
2 yard -- would not factor into the side
3 yard. Or is it this 20? I don't know.

4 MEMBER FARKAS: You allow the
5 walkway.

6 CHAIRMAN SARETSKY: Walkways I
7 don't think count.

8 MR. TERCHUNIAN: Not really.

9 CHAIRMAN SARETSKY: Is there
10 anything else we can do to try to help,
11 like, trying to put something into
12 something else so that it can be not
13 covered in coverage.

14 MEMBER FARKAS: If you narrow the
15 extension, if you narrow it by three
16 feet, you're taking off about 150
17 square feet and that would bring down
18 your ratio.

19 MR. HULME: It would still require
20 lot coverage. This is not an
21 unreasonable size space I don't think
22 for what it's going to be used as.

23 MEMBER MIZZI: I was suggesting or
24 about to suggest that, like, I don't
25 know how important it is that the

1 structure sticks out, you know, we've
2 got these sizable closets that are
3 configured length wise. And, like,
4 could you do this? Sorry, I'm drawing
5 on it, but you know, and align it with
6 the current face of the house and just
7 look at the some of the interior
8 layouts, this closet and this closet --
9 a 20 foot bedroom and can probably
10 achieve the same design without this.

11 MEMBER FARKAS: Absolutely.

12 CHAIRMAN SARETSKY: Best effort
13 would be great.

14 MEMBER MIZZI: I'm just saying if
15 this bump out --

16 MR. HULME: You're talking about
17 this bump out right in the front?

18 MEMBER MIZZI: Like, if you were
19 to just align it with the current front
20 face of the house and then --

21 MR. HULME: We could -- I don't
22 know is the answer. We could take a
23 look at that.

24 CHAIRMAN SARETSKY: Yeah, I think
25 it would -- I think make it easier for

1 us if, you know, like it seems like
2 that's space that isn't really, like,
3 required to make the bedroom work.

4 MR. HULME: Let us talk to our
5 architect about that.

6 CHAIRMAN SARETSKY: Maybe your
7 architect could look at.

8 MEMBER FARKAS: I think that's the
9 proposed elevator.

10 MEMBER MIZZI: Is the proposed
11 elevator part of the current plans?

12 MR. CRANE: I'm sorry, the
13 question is what?

14 MEMBER FARKAS: Is this the
15 elevator?

16 MR. CRANE: Is elevator is on the
17 plans, yes.

18 MEMBER MIZZI: Okay. When you
19 said you were thinking about having
20 one --

21 MR. CRANE: No, we figured we'd do
22 it all the right way the first time.

23 MEMBER MIZZI: By the way, what is
24 this you guys are getting older? You
25 guys aren't getting older.

1 MR. CRANE: I'm going to be 69.

2 My wife --

3 MRS. CRANE: I took a fall down
4 the steps.

5 MR. HULME: I want the record to
6 reflect I said older, not old.

7 (Laughter.)

8 MEMBER FARKAS: That would be
9 reducing it by 100 square feet.

10 ATTORNEY PROKOP: Can I comment?
11 So there's a couple of things going on
12 with this application. Whatever the
13 discussion was about from this, the lot
14 calculation that the Village did wasn't
15 based on Counsel's, you know,
16 measurement of this. What happened was
17 they submitted a survey that gave us
18 the area of the property based on the
19 surveyors location of the mean high
20 water mark, which is more or less this,
21 but we can't tell, it doesn't really
22 matter, but the survey -- the square
23 footage came from the survey, which
24 indicates the mean high water mark. So
25 there's a concession in that which is

1 important to the Board, which is that
2 we're using the mean high water mark
3 for zoning determination, which I think
4 is to the Board's benefit. That's one
5 of the precedents of this application.
6 I don't know if you agree with that?

7 MR. TERCHUNIAN: Yes.

8 ATTORNEY PROKOP: So the person is
9 not coming out saying the square
10 footage of the lot is this yellow line
11 that's under water, it's the mean high
12 water mark. So we're using -- so you
13 asked me before about the precedent of
14 this application. So one of the
15 important precedents of this
16 application is that we're going to use
17 the mean high water mark, there's not a
18 claim to title there as to the
19 calculation. That movement of the mean
20 high water mark, which is indicated on
21 the survey, caused an existing
22 nonconformity. So the applicant came
23 in admitting that there's a
24 nonconformity of 23.7, and they're
25 trying to correct it and get an

1 approval for a portion of that. I'm
2 sorry, there's an existing
3 nonconformity, and they're trying to
4 expand that. So anyway, I'm going to
5 repeat myself one more time. It's an
6 important element of this application
7 that we're using the mean high water
8 mark for the purposes of the
9 calculation of the lot coverage. I
10 believe that there is --

11 MEMBER MIZZI: Why is it
12 important?

13 ATTORNEY PROKOP: Because we're
14 not using the yellow line out in the
15 water, that's a potential claim to al
16 title. There's a potential claim to a
17 title, the northerly title of the
18 property, which is out in the water
19 somewhere, and the applicant came to us
20 using the mean high water mark, which
21 is apparently 10 or 20 feet south of
22 that.

23 CHAIRMAN SARETSKY: But the only
24 question, Joe, that I'm not following
25 is he's comparing it to the two houses

1 let's just say on either side off of
2 this photograph. Okay? So the lot
3 area coverage in comparison is still
4 comparative, right? In other words --

5 ATTORNEY PROKOP: Relative to the
6 other properties, yeah. So it goes by
7 what's common in the neighborhood. You
8 know, you can't -- there's no other --
9 except that the properties -- like, the
10 property to the east actually is --
11 looks like it has a much greater lot
12 coverage.

13 MR. HULME: Yes.

14 MEMBER FARKAS: He said 26 percent
15 on that. I don't know how he got the
16 number, but it appears there's a
17 greater lot coverage.

18 ATTORNEY PROKOP: So there is a
19 question about -- when we look over the
20 setbacks, there is a question about the
21 side yard setback on the western side
22 of the property. I think that that
23 should be 20 -- somewhere around 20
24 feet.

25 MR. TERCHUNIAN: 20.8 is 4/10 of

1 4/10.

2 CHAIRMAN SARETSKY: Right now it's
3 proposed at 19. So in other words,
4 ideally it should be 1.8 less than --

5 ATTORNEY PROKOP: I think it
6 should be 1.8.

7 MR. TERCHUNIAN: So I note that in
8 the application it calls this an R-20
9 District, it's actually an R-40.

10 ATTORNEY PROKOP: Yeah, I brought
11 that up in the beginning. So it must
12 have been you that I spoke to that gave
13 me that information.

14 MR. TERCHUNIAN: I think what
15 would aid the applicant's case is to
16 provide us with the surveys of the
17 adjacent properties that indicate what
18 their lot coverage is. They don't have
19 to get it resurveyed, but I think that
20 would help the Board and provide
21 information in the record upon which
22 you could deliberate.

23 CHAIRMAN SARETSKY: I mean, I know
24 you've done this before for us for
25 other things where you've shown -- it

1 would probably make it easier for us to
2 say that this is --

3 MR. HULME: And as to this front
4 bit here, my clients aren't sure that
5 these plans are accurate in that
6 regard, so it may be very well that we
7 could eliminate that, and if we
8 eliminate that, that will --

9 MEMBER MIZZI: That will help the
10 calculation.

11 CHAIRMAN SARETSKY: And so in the
12 setback though on that side, it might
13 be easier to take it off of that
14 because we need to do that anyway, and
15 then maybe that front piece doesn't
16 matter as much.

17 MR. TERCHUNIAN: I think I would
18 encourage your client to look at both
19 the front piece that was identified and
20 combined with the side yard.

21 MEMBER FARKAS: That would be
22 about 200 square feet off.

23 MR. TERCHUNIAN: That's almost
24 half of what they're asking for.

25 ATTORNEY PROKOP: So because it's

1 R-40 instead of R-20, do they need
2 another --

3 MR. HULME: No, it's a single and
4 separate.

5 MEMBER FARKAS: When this home was
6 built, it had a 20 percent lot
7 coverage?

8 MR. TERCHUNIAN: We assume.

9 MEMBER FARKAS: And then it was
10 lost because of because of the high
11 water mark?

12 ATTORNEY PROKOP: That's correct.

13 MEMBER FARKAS: So it's not
14 conforming not because of anything that
15 the homeowner or applicant did.

16 ATTORNEY PROKOP: Natural
17 conditions and because --

18 MR. HULME: We conclude is not
19 self-created.

20 ATTORNEY PROKOP: They better
21 finish this quick or it's going to be
22 25 percent.

23 (Laughter.)

24 MEMBER MIZZI: Yeah, I would say
25 as a general comment based on my

1 experience being on the Board is, like,
2 if the goal is 20 and you're doing
3 something that's going to take you over
4 20, I think we've, you know, we've
5 found ways to approve such requests,
6 but we've also just said take a hard
7 look at your design, make sure --

8 CHAIRMAN SARETSKY: It's as
9 efficient as possible.

10 MEMBER MIZZI: Yeah, make it as
11 efficient as possible, and I think it
12 sounds like we're going to check the
13 front, whether that's still in the
14 design, and the side yard, and, you
15 know, just so that it's the exception
16 is being, you know, you're getting as
17 close as possible without ruining your
18 design intent recognizing you're trying
19 to accomplish something. That would be
20 my -- that would make me feel most
21 comfortable.

22 MR. CRANE: Could I reply to that?

23 MEMBER MIZZI: Yes.

24 MR. CRANE: Thank you. My name is
25 Cary Crane. Andrea and I now live here

1 permanently. This is our only home.
2 We don't have a place in Florida, an
3 apartment in the city, or anything
4 else. And Andrea broke her foot
5 getting up the steps to the first
6 floor, it's been difficult, even worse
7 is getting to the second floor. So
8 we're trying to make the first floor a
9 master bedroom suite or primary suite
10 so that we don't have to go up and down
11 the steps as often as we're doing.
12 We're only getting older. The house
13 was built as a summer house, so the
14 closets are -- we have winter clothes,
15 we have summer clothes. It's not like
16 we come here with just bathing suits
17 and sandals. We have everything. And
18 luggage, and a million things that go
19 into every one of our homes. We're not
20 trying to make this house a monster, an
21 eyesore. We're trying to keep it --
22 and I think when it's done it's going
23 to look better than it does now, and
24 nobody is going to even notice the
25 difference. And we're just trying to

1 make it livable for our family, and our
2 kids that come, and stuff like that.
3 It's just we're sliding out the side.
4 I had Mike, our next door neighbor who
5 you guys all know, come into my house.
6 He built my house. He went through it
7 all. He said I don't see a problem.
8 You're not coming near my house at all.
9 You have a whole lot side of sand dune
10 on this side. I don't see any problem
11 with it. I do get and I do appreciate
12 what you guys are trying to do to be
13 fair to everyone, not just people in
14 this room, but anyone else who might
15 come in the future. I really don't
16 think we're pushing the envelope. I
17 will go back, I will try, but I just
18 don't think we've gone crazy here.

19 MEMBER MIZZI: We're not saying --

20 CHAIRMAN SARETSKY: We're not
21 saying you went crazy. Again, we're
22 just --

23 MRS. CRANE: That would be the
24 house across the street.

25 CHAIRMAN SARETSKY: Again, we're

1 up against this with all sorts of
2 different cases and because of it we're
3 trying to be fair and reasonable, so if
4 you can look at it and just, you know,
5 make it efficient, and make it work,
6 make it do all the things you need, try
7 to take it, you know, obviously the
8 setback on that side is important, so I
9 mean, your architect should understand
10 that. At the same time, you know, we
11 can --

12 MEMBER MIZZI: Who is your
13 architect?

14 MR. CRANE: Todd O'Connell.

15 MR. HULME: We will. If we can
16 adjourn this and keep it open for all
17 purposes, and we'll look at the side
18 yard, we'll provide the information,
19 the actual information, the better
20 information about the neighbors, and
21 we'll take a close look at what we're
22 looking to do, and if it can work
23 differently, it will, and if it can't,
24 we'll come back.

25 CHAIRMAN SARETSKY: Right. And I

1 think like you were saying, showing
2 those other homes that exceeded and
3 whatever will make it easier for us.

4 MR. TERCHUNIAN: Also you should
5 ask your design professional to look at
6 his lot coverage calculations and his
7 zoning table and update them
8 appropriately, especially the zoning
9 table.

10 MR. CRANE: By the way, Mike is
11 trying to do something with the
12 shoreline by putting in -- other homes
13 on either side of us have done some
14 work into the bay to protect their
15 property, I forgot what it's called,
16 but we've hired First Coastal.

17 CLERK SADELI: That's Aram's
18 company.

19 MRS. CRANE: Is that where my
20 money is going?

21 MEMBER MIZZI: I did too when I
22 did my home.

23 MR. CRANE: We are trying to
24 protect and hopefully maybe by
25 diverting the waves and the currents

1 coming into our shoreline to spread it
2 out equally, we might get back some
3 land. I don't know if that's possible,
4 but we are trying to limit it so that
5 your comment before, Joe, about we look
6 at this in three years and I'm at 27
7 percent. If that's the case, I may be
8 moving.

9 ATTORNEY PROKOP: So what happened
10 is -- thank you for bringing that up.
11 So what happened is the Village created
12 two or three months ago a new Coastal
13 Erosion District. Mike Craig sponsored
14 that. So we now have a new district,
15 and First Coastal is working on a
16 restoration plan, which will probably
17 bring -- effect the shoreline here
18 positively.

19 MEMBER MIZZI: Good, good.

20 MR. HULME: Hurry up.

21 CHAIRMAN SARETSKY: What's taking
22 so long?

23 MEMBER MIZZI: We won't be able to
24 get in and out of the Village if the
25 shoreline is effected.

1 ATTORNEY PROKOP: Off the record.

2 (A discussion was held off the
3 record.)

4 MR. HULME: I don't know if you
5 have a new date in mind, but I ask that
6 it be adjourned to whatever that new
7 date is.

8 CHAIRMAN SARETSKY: You tell us
9 what time you need, I'm sure we can try
10 to be as accommodating as we can.

11 MR. HULME: I mean, we can get all
12 this stuff together in two weeks to a
13 month I think at most.

14 MEMBER MIZZI: I'm traveling the
15 weekend of the 17th, and following
16 weekend is Thanksgiving.

17 CLERK SADELI: We'd still need
18 time to notice the paper.

19 MR. HULME: This is already
20 noticed.

21 ATTORNEY PROKOP: The side yard
22 isn't.

23 MEMBER MIZZI: We don't need Joe
24 if James can be here, right?

25 CLERK SADELI: Yeah, I think he

1 was traveling only this month, he
2 didn't say anything about November, and
3 then Irwin too.

4 CHAIRMAN SARETSKY: So maybe we
5 can --

6 MR. HULME: Well, I'll get the
7 stuff together as quickly as possible.

8 CHAIRMAN SARETSKY: We understand
9 you're looking to move so --

10 MR. HULME: We'll set a date based
11 on when we've gotten the information to
12 you.

13 CHAIRMAN SARETSKY: Motion to
14 adjourn.

15 MEMBER FARKAS: Second.

16 CHAIRMAN SARETSKY: All in favor?

17 ATTORNEY PROKOP: That's to
18 adjourn the public hearing. So we have
19 other business to take care of. I'd
20 like to have a meeting with Counsel, if
21 we could, off the record.

22 (A discussion was held off the
23 record at 9:47 a.m.)

24 CHAIRMAN SARETSKY: Motion to go
25 back to a public session at 10:04 a.m.

1 MEMBER FARKAS: Second.

2 CHAIRMAN SARETSKY: Motion to
3 adjourn the public hearing.

4 MEMBER MIZZI: Second.

5 (The meeting was adjourned at
6 10:05 a.m.)

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I, AMY THOMAS, 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 held on October 29, 2022, and were reported by me.

I further certify that I am not related to any of the parties to this action by blood or by 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 31st day of OCTOBER, 2021.

AMY THOMAS

| A | | | C | |
|--|--|--|--|--|
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