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5	ZONING BOARD OF APPEALS	
6	VILLAGE OF NORTH HAVEN	
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9	Held at:	
10	335 Ferry Road	
11	Sag Harbor, New York 11963  Also Held Via:	
12	Zoom Video Communications	
13	January 9, 2024	
14	7:00 p.m.	
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22		
23	Proceedings Recorded by Electronic Sound Recording	
24	Transcribed by: Agata Davis	
25		

1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	MR. BROOKS: Okay. So we will
3	begin. It's 7:00. Welcome to the January
4	9th, 2024 Zoning Board of Appeals meeting
5	for the Village of North Haven.
6	This is Scott Brooks. I am the
7	assistant Zoning Board deputy chairman.
8	So tonight our first order of
9	business is to approve of the transcript
10	for the December 12th, 2023 meeting. Do
11	we have a
12	MR. MIDDLETON: Just yeah,
13	let's just make a motion to open the
14	meeting first.
15	MR. BROOKS: Okay. Motion to open
16	the meeting?
17	MR. COX: Move to open the
18	meeting.
19	MR. BROOKS: All right.
20	MR. HATFIELD: Second.
21	MR. BROOKS: First, Mr. Cox.
22	Second, Mr. Hatfield.
23	Now we will have a motion to
24	approve the transcript from the December
25	12th, 2023 meeting.

one of the issues -- just to remind the

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Board, that was one of the issues that I had. There were a couple of violations on the property. One was rectified before they came to the ZBA. This one, I wanted to get confirmation that the topography -- because they had added fill and whatnot when they were using the property in conjunction with the construction next door, so I wanted to make sure that the fill was removed and the topography was basically the same.

David Saskas or somebody from his office went out to the property and confirmed that the topography is if not the same, substantially the same as it was prior to the demolition.

MR. BROOKS: Do we need to add -- do we have anything specific to add to the correspondence, or we're okay?

MR. MIDDLETON: No, no, that's fine.

We can just note for the record that today we received the letter from Ms. Scarlato dated January 9th enclosing the

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2 surveys confirming that the topography is 3 acceptable to the Village.

MR. BROOKS: So then -- so if there's no other correspondence, then we have two applications for which we have decisions tonight.

The first application is ZBA #421A, 20 Forest LLC. The property is located at 20 Forest Road, North Haven, New York. Suffolk County Tax Map No. 901-5-1-62. The applicant seeks relief for an existing dock on a currently vacant parcel. Chapter 56-3(C) of the Village Code states that any dock shall be prohibited unless said dock is located in waters contiguous with an upland parcel owned by the applicant and improved with a residence, and docks seaward of unimproved parcels or parcels other than residence parcels are prohibited. The subject premises is bounded by Forest Road, 24 Forest LLC, Shelter Island Sound, and Wiesenthal.

25 So we have a decision, which I

	7
1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	will read into the record. So this is ZBA
3	#422A.
4	MR. MIDDLETON: 421A.
5	MR. BROOKS: 421A. Sorry.
6	This is ZBA #421A Decision in the
7	matter of the Application of 20 Forest
8	LLC.
9	This is an application for a use
10	variance to permit the existing dock to
11	remain on the currently vacant premises
12	while the premises is redeveloped, where
13	Village Code Section 56-3(C) prohibits
14	docks unless the upland property is
15	improved with a principal structure. The
16	Premises is located at 20 Forest Road,
17	North Haven, New York. The Suffolk County
18	Tax Map Number is District: 901 Section:
19	5, Block: 1, Lot: 61. The application
20	was dated and filed on August 23, 2023.
21	The Board considered the application at
22	each successive meeting until the January
23	9, 2024 meeting at which time the record
24	was closed.
25	Do we need to move to close?

1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	MR. MIDDLETON: No, I think it was
3	closed last time.
4	MR. BROOKS: Okay.
5	Findings. The Board makes the
6	following findings:
7	1. This is an application for a
8	use variance to permit the existence of
9	the dock at the premises without a
10	principal structure improving the
11	premises.
12	2. The premises is a 1.25 acre
13	parcel bounded by Forest Road to the west,
14	Shelter Island Sound to the east, 24
15	Forest LLC lot to the north, and the
16	Wiesenthal lot to the south.
17	3. Applicant proposes to
18	redevelop the premises with a
19	single-family residence and other
20	improvements.
21	4. The premises previously
22	benefitted from prior variances permitting
23	construction of the proposed residence
24	within a reduced front yard setback.
25	5. The premises is located in an

### NORTH HAVEN ZONING BOARD - 1/9/2024

2 R-1 District.

- 3 6. Village Code Section 56-3(C)
- 4 states, "Any dock shall be prohibited
- 5 unless said dock is located in waters
- 6 contiguous with an upland parcel owned by
- 7 the applicant and improved with a
- 8 residence, and docks seaward of unimproved
- 9 parcels or parcels other than residence
- 10 parcels are prohibited."
- 11 7. As a result of a demolition
- 12 permit issued by the Village, the primary
- 13 structure was demolished without
- 14 concomitant issuance of a building permit.
- 15 8. The premises is currently
- vacant in that the prior principal
- 17 structure had been razed in contemplation
- of constructing the new proposed
- 19 single-family dwelling, but the dock
- 20 remains in violation of Village Code
- 21 Section 56-3(C) because the primary
- 22 structure was demolished.
- 23 Discussion.
- 24 9. This application is governed
- by Village Law Section 7-712-b(2). As

NORTH	HAVEN	ZONING	BOARD	- 1,	/9/	12024
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discussed below, the Board considered the statutory factors enumerated under Village Law Section 7-712-b(2)(b), including whether: (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or the neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and(4) that the alleged hardship has not been self-created.

10. Without the requested relief, the premises cannot be developed, and the premises cannot be sold because the dock violates Village Code Section 56-3(C). If the premises cannot be developed, then the applicant stands to gain no return, let alone a reasonable return from owning this property because the premises will be undevelopable. The inability to sell the

### NORTH HAVEN ZONING BOARD - 1/9/2024

premises based on the permitted demolition of the prior primary structure constitutes an undue and inadvertent financial hardship on the application that can only be remedied by granting the requested variance relief.

result of unique circumstances because it resulted from the Village issuing a demolition permit for the primary structure without regard to the accessory dock. As such, the primary structure has been demolished, and the dock currently exists in violation of the Village Code because there is not an upland residence. This issue is not community-wide, but it is limited to the unique circumstances of this application.

12. The use variance is not the result of a self-created difficulty because, as discussed above, the Village issued a demolition permit authorizing the demolition of the principal structure without providing concomitant relief for

NORTH HAVEN ZONING BOARD - 1/9/2024

2 the existing dock.

variance will not adversely impact the essential character of the neighborhood. The variance relief conforms with the character of the neighborhood in which surrounding properties are waterfront properties with docks.

Board that granting the requested relief avoids unnecessary negative impacts to the environment and wetlands. The dock is a permitted use. However, its current existence is not permitted because the premises is currently not improved with a primary structure. If the requested relief is not granted, that would mean that the applicant would have to remove the dock, redevelop the premises, and then apply for and construct a new dock. That would result in otherwise unnecessary disturbance and environmental impacts.

15. The Board further finds that granting this relief is not intended to

1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	set precedent authorizing the erection or
3	use of docks without improved upland
4	primary structures. This relief is
5	uniquely granted because the dock
6	previously existed in compliance with
7	Village Code Section 56-3(C), but due to
8	the issuance of a demolition permit
9	without a concomitant building permit, the
10	primary structure was razed and the dock
11	survived in violation of the Village Code.
12	16. Considering the variance
13	relief sought conforms with the
14	surrounding neighborhood and merely
15	maintains status quo, the Board finds in
16	favor of granting the requested relief
17	subject to the following conditions:
18	a. This variance relief is not
19	intended to set precedent authorizing the
20	construction or use of a dock without an
21	upland primary structure, but it is
22	granted because the dock previously
23	existed in compliance with the Village

b. The dock cannot be used for

Code.

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1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	any purpose until a Certificate of
3	Occupancy is issued for a principal
4	structure.
5	c. Necessary maintenance and
6	repairs may be performed subject to the
7	approval of the Village Building
8	Inspector.
9	d. Applicant understands and
10	acknowledges that the status quo of the
11	dock will be communicated to the Village
12	Harbor Master for enforcement purposes
13	relative to unauthorized and unpermitted
14	use of the dock without an upland primary
15	structure.
16	Conclusion.
17	17. On the basis of the above
18	findings and discussion, and upon
19	consideration of the statutory factors as
20	required, this application is granted on
21	the conditions set forth above.
22	So I guess we should now vote
23	on
24	MR. MIDDLETON: Right. You have a
25	motion to approve the Decision. Okay.

	15
1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	MR. BROOKS: Motion from Mr.
3	D'Angelo.
4	MR. HATFIELD: Second.
5	MR. BROOKS: Second from Mr.
6	Hatfield.
7	So on the motion by Mr. D'Angelo,
8	with a second from Mr. Hatfield, the
9	foregoing do all in favor?
10	ALL BOARD MEMBERS: Aye.
11	MR. BROOKS: The foregoing
12	resolution was approved by unanimous vote.
13	The vote is approved.
14	MR. MIDDLETON: And just note for
15	the record that Ms. Scarlato was in
16	attendance today.
17	MS. SCARLATO: Have a good night,
18	everyone.
19	MR. MIDDLETON: Thank you.
20	MR. BROOKS: Okay. The next
21	application is ZBA #422A, Ronald and
22	Samantha Panzier. The property is located
23	at 32 Coves End Lane, North Haven, New
24	York. Suffolk County Tax Map No.

901-6-2-68.1. The applicant proposes a

1	16 NORTH HAVEN ZONING BOARD - 1/9/2024
2	swimming pool and associated patio 54'
3	from the front property line. Section
4	163-18A of the Village Code requires the
5	minimum distance from the street to be 70'
6	in an R-2 District. Section 163-31D
7	states that no accessory building shall
8	project nearer to the street on which the
9	principal building fronts than such
10	principal building. The subject premises
11	is bounded by Cove Road, Third Street,
12	Coves End Land, and Richardson.
13	So we've got a Decision that I
14	will read in. I guess I read
15	MR. MIDDLETON: Yeah, same as last
16	one.
17	MR. BROOKS: Okay. All right.
18	So this is ZBA #422A Decision. In
19	the Matter of the Application of Ronald
20	Panzier and Samantha Panzier.
21	This is an application for an area
22	variance to permit a proposed swimming
23	pool and patio 54 feet from the street
24	where Village Code Section 163-18A
25	requires accessory structures be a minimum

1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	distance of 70 feet from the street. The
3	premises is located at 32 Coves End Lane,
4	North Haven, New York. The Suffolk County
5	Tax Map number is District: 901 Section:
6	6, Block: 2, Lot: 68.1. The Building
7	Inspector's turndown or denial letter is
8	dated September 5, 2023, and the
9	application was dated and filed on
10	September 11, 2023. The Board considered
11	the application at each successive meeting
12	until the January 9, 2024 meeting at which
13	time the record was closed.
14	Findings. The Board makes the
15	following findings:
16	1. This is an application for
17	variance relief to permit a proposed
18	swimming pool and patio 54 feet from the
19	street.
20	2. The premises is located in an
21	R-2 District.
22	3. The premises is a 27,499
23	square foot parcel bounded by 3rd Street
24	to the north, the Richardson lot to the
25	south, Coves End Lane to the east, and

1	18 north haven zoning board - 1/9/2024
2	Cove Road to the west.
3	4. The premises is a unique
4	corner lot with three front yards for
5	zoning purposes.
6	5. Applicant proposes to remove
7	the pre-existing swimming pool and
8	construct a new one in a similar location
9	on the premises with an attendant patio.
10	6. Under Village Code Section
11	163-18A, accessory structures, such as
12	swimming pools and patios, must be a
13	minimum distance of 70 feet from the
14	street in an R-2 District.
15	7. Applicant seeks variance
16	relief permitting the proposed swimming
17	pool 54 feet from Cove Road.
18	8. The Board also acknowledges
19	that the applicant proposes to submit
20	landscaping plans to install screening and
21	buffers along the southern property line,
22	which mitigates the impact the proposed
23	pool and patio may have on the only
24	adjacent lot.

9. Approximately four other lots

### 1 NORTH HAVEN ZONING BOARD - 1/9/2024

in the community also have pools within

the 70 foot setback from the street.

4 Discussion.

5 This application is governed 6 by Village Law Section 7-712-b(3). Board is required to balance a 7 consideration of the benefit to the 8 applicant if the relief sought is granted against harm to the neighborhood if the 10 11 relief sought is granted. As discussed 12 below, the Board considered the statutory 13 factors enumerated under Village Law 14 Section 7-712-b(3)(b), including whether 15 granting the variance will produce undesirable changes in the neighborhood, 16 17 whether feasible alternatives exist, 18 whether the requested variance is 19 substantial, whether the requested 20 variance will have an adverse effect or 21 impact on the physical or environmental 22 conditions in the neighborhood, and 23 whether the alleged difficulty was self-created. 24

11.

The requested variance is

NORTH HAVEN ZONING BOARD - 1/9/2024

substantial because it deviates from

Zoning Code by approximately 13%. Despite

the substantiality, the net effect creates

no discernable difference on the

surrounding properties because the

premises had a pre-existing pool in a

similar location and several other

surrounding properties also have pools

within the 70 foot setback.

not produce an undesirable change in the character of the neighborhood. As noted above, the premises had a pre-existing pool in a similar location and several other surrounding properties also have pools within the 70 foot setback.

Additionally, although the proposed pool is closer to the street than permitted, the effect will be significantly mitigated by the proposed vegetated screening and buffers.

13. Granting the requested area variances will not adversely impact physical or environmental conditions in

### NORTH HAVEN ZONING BOARD - 1/9/2024

the neighborhood. The required screening and buffers mitigate the impact the proposed pool may have existing closer to the street than permitted.

- alternatives is limited given the unique nature of the premises. Because the premises is bounded by three different streets, it has three front yard setbacks for zoning purposes, which significantly limits the building envelope.
- 15. Although the requested area variances may be deemed the result of a self-created difficulty, this factor, alone, does not warrant denial of the instant application.
- instant application is the result of efforts by applicant to submit amended and alternative plans, which eliminated the need for a variance and reduced the substantiality of the variance relief requested.
- 17. Although the variance relief

NORTH HAVEN ZONING BOARD - 1/9/2024

sought is substantial, it has minimal impact on surrounding neighbors and physical and environmental conditions and is significantly mitigated by screening and buffers provided by dense vegetation.

Thus, the Board finds that a balance of the relevant factors weighs in favor of

granting the requested relief.

Conclusion.

findings and discussion, and upon a balancing and weighing as required, this application is granted on the condition that the applicant submit landscape plans that propose buffers and screening along the south property line to screen the pool and patio from the only impacted neighbor within sixty days of receipt of this Decision for review and approval by the Village Building Inspector.

So we need a motion to approve that Decision. Okay, Mr. Cox. Second, Mr. D'Angelo. And so we vote unanimously in favor.

1	NORTH HAVEN ZONING BOARD - 1/9/2024
2	And so on a motion by Mr. Cox and
3	a second from Mr. D'Angelo, the foregoing
4	resolution was approved by unanimous vote.
5	So, other matters, our next
6	meeting of the Zoning Board of Appeals
7	will be Tuesday, February 13th, 2024.
8	And next, we just need a motion to
9	adjourn. Mr. Cox. Mr. D'Angelo, second.
10	All in favor?
11	(All Board Members voted in favor.)
12	(End of Provided Recording)
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