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ZONING BOARD OF APPEALS
VILLAGE OF NORTH HAVEN

Held at:
335 Ferry Road
Sag Harbor, New York 11963
Also Held Via:
Zoom Video Communications

June 13, 2023
7:00 p.m.

Proceedings Recorded by
Electronic Sound Recording
Transcribed by: Agata Davis

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

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Mark Poitras, Chairperson (Absent)

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Scott Brooks, Alternate Chairperson

6

Steve Hatfield, Board Member

7

Steve Cox, Board Member

8

Michael D'Angelo, Board Member

9

Michael Daly, Alternate Board Member
(Absent)

10

Scott Middleton, Esq., Village Attorney

11

George Butts, Village Building Inspector

12

Erika Gubitosi, Village Clerk/Secretary
(Present via Zoom)

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1 **NORTH HAVEN ZONING BOARD - 6/13/2023**

2 MR. BROOKS: So, welcome to the
3 Zoning Board of Appeals meeting for
4 Tuesday, June 12th, 2023 (sic).

5 The first item on our Agenda is to
6 approve of the May 9th, 2023 transcript
7 from our prior meeting.

8 Do I have a motion for that?

9 MR. HATFIELD: (Raises hand.)

10 MR. BROOKS: Steve.

11 MR. D'ANGELO: (Raises hand.)

12 MR. BROOKS: Mike, second.

13 All in favor?

14 ALL BOARD MEMBERS: Aye.

15 MR. BROOKS: Okay. So all are in
16 favor.

17 So we have -- I don't believe we
18 have any correspondence this evening?

19 MR. MIDDLETON: I think there was
20 on this, the --

21 MR. BROOKS: Oh, we do have
22 correspondence.

23 MR. MIDDLETON: The contractor, I
24 think, sent us a letter, which is what
25 was --

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MR. BROOKS: Okay. Do we have to read this in or has this already been taken into the record?

MR. MIDDLETON: It's not yet.

MR. BROOKS: Okay.

MR. MIDDLETON: I mean, you can either read it in or just --

MR. BROOKS: All right. So, well, this ties to -- I guess I could then go to our application and then I'll read the correspondence with regard to the application.

So, the application tonight, which is a carryover from our earlier meeting, is ZBA #419A, Joan Caspi. The property is located at 219 Ferry Road, North Haven, New York. Suffolk County Tax Map No. 901-4-2-3. The applicant seeks relief from Section 163-10E(8)(b) of the Village Code. The Code states that the setback from any property line for a swimming pool, including any decks or slabs or structures accessory to said swimming pool, shall not be less than 20 feet on a

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lot having an area less than 40,000 square feet. The setback of the swimming pool coping is located 19 feet from the property line. The subject premises is bounded by Ferry Road/Route 114, Aldred, Harris and Crowley.

I'll point out that Chairman Mark Poitras is within the noticeable distance from this property for his house, and so he has recused himself from this meeting as to this issue, application. So, I am Scott Brooks, the vice chairman hosting the meeting.

And so we do have correspondence, as noted. At our last meeting it was identified that the placement of the coping within 19 feet from the rear lot line was done in error by the owner's contractor. The contractor had understood the rule to be that you measured from the inside face of the pool wall, not from the adjacent coping.

And so we do have a correspondence from Cross Island Pools by Jim Otto, who I

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understand would be the contractor. I don't believe he's the contractor who pulled the building permit for the pool work, but -- so this is Cross Island Pools by Jim Otto. His address is 415 Munsell Road, Patchogue, New York 11772.

And his correspondence reads, "Dear Sir, as per Board request, I am sending this letter. Building pools for the past 50 years all around The Hamptons, I have always used the waterline of the pool as the correct distance from the property line. It was made 20 feet for the Caspi residence at 219 Ferry Road, as was requested. The owner asked me to remind the Board that her property where the pool was placed is next to a 20-acre nature preserve that is protected. Thank you for your time. James Otto."

So we will place this in the record as --

MR. MIDDLETON: Exhibit A.

MR. BROOKS: -- Exhibit A.

(Exhibit A was marked in evidence.)

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MR. BROOKS: I will note, to clarify the information provided at the last meeting and also Mr. Otto's correspondence here, that the 20-foot distance that we're talking about actually goes to the rear yard, which is owned by an adjacent neighbor. It is not reserve. The property to the north, which is more than 20 feet off, is a neighbor's property that looks like reserve, but that is -- the real issue is the 19-foot distance does not run to reserve. It runs to an actual neighbor's property. So that's not an accurate assertion by the applicant or their contractor.

But, that said, you know, certainly, my sense -- and we've got Steve Cox with us tonight so we got four members of the Board here. Steve wasn't at the last meeting.

My sense is, it's not our goal to be difficult. This seems to be a, you know, honest error. It's not, in our sense, from the last meeting's

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1 presentation, it is not that the owner
2 gained any great benefit by having the
3 pool one foot further from the house.
4 There is room within, you know, one foot
5 closer to the house to have been
6 compliant. And it appears to be an honest
7 mistake, as Mr. Otto's correspondence
8 would show, that they just built it one
9 foot too far back towards the neighboring
10 property.
11

12 Again, because we're trying not to
13 be unreasonable, I -- we discussed at the
14 last meeting whether there was a real
15 feasible alternative, which would be
16 removing, I guess, that bluestone and
17 replacing it with something that would be
18 somehow compliant.

19 And I kind of deferred -- Steve
20 Hatfield is a architect. Maybe -- or to,
21 you know, to George Butts. I mean, if
22 there's a feasible alternative that would
23 be not ridiculous, that would be great,
24 but I don't know that there is such a
25 thing.

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1 MR. HATFIELD: It's possible to
2
3 remove the coping and do some kind of
4 steel edge, stainless steel edge, on that
5 side that brought the grass right up to
6 the pool line, but it doesn't change where
7 the pool is, you know. It's --

8 MR. BROOKS: Right. But I think
9 we are including that bluestone within the
10 20-foot --

11 MR. HATFIELD: Yes.

12 MR. BROOKS: -- measurement. So
13 if you remove the bluestone, you might be
14 compliant, but --

15 MR. HATFIELD: I just, I'm saying
16 it's possible. I haven't seen the pool.

17 MR. BROOKS: Yeah.

18 MR. HATFIELD: But, you know, you
19 could imagine removing that bluestone
20 coping and getting a three-inch high by
21 3x8 stainless steel angle and bolting that
22 to where the coping was and just letting
23 the grass come right up to that. You
24 know, it's not gonna grow as nicely, but
25 it's possible.

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2 MR. BROOKS: Does the building
3 inspector have any thoughts on that? Is
4 that, like -- I mean, I'm just trying to
5 consider alternatives, you know, before we
6 kind of --

7 MR. MIDDLETON: Right.

8 Just so the applicant knows, the
9 Board needs to consider if there are any
10 reasonable alternatives, so that's why
11 this line of questioning is there, just so
12 you know.

13 MS. CASPI: I understand.

14 MR. MIDDLETON: Okay.

15 MR. BROOKS: I mean, I don't --
16 we're certainly not trying to be
17 difficult. On the other hand, as I said
18 at the last meeting, you know, if we had
19 been asked whether this was allowable, I
20 think we would have said no 'cause we
21 never grant variances on this thing, that
22 I can recall, on the setback for a pool.
23 And so it is almost worse to grant the
24 variance because someone didn't ask for
25 permission than to say no when someone

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asks for permission.

But I understand that, you know, as the correspondence reflects, this is an honest mistake. So I'm just trying to consider whether there's feasible alternatives that aren't unreasonably burdensome.

Does anyone else have any thoughts or input on that?

MR. HATFIELD: Did you explore -- did you mention at the last meeting that you had talked to your architect -- architect about removing the bluestone? I just was just --

MS. CASPI: I was saying that the, the end of the pool, which was in question, for me, I guess, there is the neighbor, but I didn't realize, 'cause I look out on this reserve, which looks like -- I don't know where his property ends and the reserve begins.

MR. BROOKS: Well, the reserve would be --

MS. CASPI: This is all open.

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2 MR. BROOKS: -- on the north side,
3 right, whereas the distance we're talking
4 about is to the west, I believe, if my
5 measurements -- so.

6 MR. D'ANGELO: Well, the fellas
7 and I were talking before the meeting. If
8 it was, say, like, a ten-foot bluestone
9 patio that was built off the side of the
10 pool, that's a different story.

11 MR. BROOKS: Right.

12 MR. D'ANGELO: The 12-inch coping,
13 me, personally, and this is just my
14 personal experience of all the pools I've
15 ever seen with just bluestone coping
16 around it or just, you know, grass, I've
17 never seen grass go up to the edge of a
18 pool before. You think that's a thing
19 that's done commonly or it has been done?

20 MR. HATFIELD: No, it's not
21 common.

22 MR. BROOKS: It would be really
23 difficult to cut.

24 MR. HATFIELD: Yeah. It would be
25 a nightmare for the pool.

1 **NORTH HAVEN ZONING BOARD - 6/13/2023**

2 MR. BROOKS: Yeah.

3 MR. HATFIELD: You know,
4 (inaudible) and everything would go in the
5 pool. I'm just saying --

6 MR. BROOKS: Yeah.

7 MR. HATFIELD: You asked me if
8 there's -- maybe it's not feasible.

9 MR. BROOKS: Yeah.

10 MR. HATFIELD: But there's
11 potential.

12 MR. BROOKS: And that's perfectly
13 fine as a response, is that there's not a
14 feasible alternative. I'm just making
15 that inquiry.

16 MR. MIDDLETON: From my
17 perspective, as the Village Attorney, if
18 I'm looking at this and the pool could not
19 be accommodated without making that
20 one-foot error, it would be different.
21 But, you know, it could have been pushed
22 back closer to the house.

23 MR. BROOKS: Right.

24 MR. MIDDLETON: So I think that,
25 that kind of lends itself to this was an

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error or a different interpretation of
where to measure from, so.

MR. HATFIELD: And if we go down
our tests, you know, they're asking
forgiveness, in a way, so, like you said,
it's different. But, you know, is there a
benefit to the applicant.

MR. BROOKS: No.

MR. HATFIELD: Is there a
detriment to the neighborhood, no. But is
it -- I mean, the benefit to the applicant
clearly outweighs because the financial
cost of moving the pool --

MR. BROOKS: Right.

MR. HATFIELD: -- outweighs any
detriment to the community.

MR. BROOKS: Right. I believe
that there's -- I -- given the
circumstance and how it lays out on the
lot, it looks like a completely honest
mistake. And it is, you know, somewhat
shielded to the back, to the neighbor's
yard there, so I -- you know, and we
haven't had any correspondence from the

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neighbor on this issue.

MR. COX: I have a question.

Would this run the risk of other people measuring to the water line and then coming in and saying --

MR. MIDDLETON: Well, I think maybe that's something that the, the Building Inspector can make clear when somebody comes in for a permit, to say, you know, in this Village we measure to whatever the outside of the coping is as opposed to the water line of the pool.

MR. BUTTS: If the guy was putting it -- the pool in, he would have been familiar with the pools. He would know by reading it. Apparently, he didn't read anything. He just came in and did what he thought was right.

MR. BROOKS: As -- I'm pretty sure from when we looked at the record last time, it was a different contract -- pool contractor who had pulled the building -- the pool permit.

MR. BUTTS: That's right.

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MR. BROOKS: And this guy was not that guy.

So I do say, in fairness, looking at the layout and the distance from the house, moving the pool one foot clo- -- they didn't -- they didn't necessarily jam this closer to the neighbor so they could squeeze the pool in. It could have worked either way.

So, I mean, I think, I'm not that worried as a precedent that someone's gonna look at this and say, "Oh, you guys grant this all the time." I think there are circumstances here that lend to a reasonable response.

MR. HATFIELD: And if you look at the survey, you can see why, you know, you might say, well, why does it conform on one side and not the other, but I think they aligned it with the existing wood deck.

MR. BROOKS: Yeah.

MR. HATFIELD: So that explains, even though it's close, 21-and-a-half to

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22 -- 21-and-a-half, that's an easy alignment to make.

MR. D'ANGELO: When the application is submitted, isn't there a survey drawn up by this guy Barylski that has the proposed pool with the dimensions and the distance from the property line to coping and the pool? So if that proposed survey indicates what it should have been, then, then in that case, yeah, if the original application was correct and then, in this case, it was a mistake made by the contractor where now it's the owner's problem, you know, that would be -- that would give us -- if anyone ever said, "Hey, let them have it," we'd say, "Well, the original plans said" -- but then I guess they can make a mistake as well.

MR. MIDDLETON: Look, to me, it's -- if you look at the degree of nonconformity, it's a five-percent difference.

MR. BROOKS: Yeah.

MR. MIDDLETON: So at the end of

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the day, it's a minimal variance.

And I -- as Mr. Hatfield points out, I don't think it sets a bad precedent given the fact that there was -- you know, you had two different contractors, et cetera, one that pulled the permit, and one that built it, and the one who built it was off by a foot.

MR. BROOKS: Okay. Well, does anyone have anything else to add on that, or? Okay. And --

MR. MIDDLETON: We do have a decision tonight if you folks are in favor of it, so.

MR. BROOKS: I, I support that.

So we need a motion to --

MR. MIDDLETON: Motion to --
motion to approve the variance, yeah.

MR. BROOKS: Yeah, okay.

Motion to --

MR. D'ANGELO: (Raises hand.)

MR. HATFIELD: Second.

MR. BROOKS: First, second, Mike
and Steve Hatfield.

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2 All in favor?

3 ALL BOARD MEMBERS: Aye.

4 MR. BROOKS: Okay.

5 MR. MIDDLETON: It's unanimous.

6 MR. BROOKS: So, it's unanimous.

7 Okay.

8 So do you want me to read that
9 decision?

10 MR. MIDDLETON: No, we don't have
11 to read it into -- but what we'll do is
12 we'll give you a copy of it when it's
13 finalized. We had to -- we have to add
14 one or two more things to it from my draft
15 and it should be ready in a couple of
16 days.

17 MS. CASPI: Thank you.

18 MR. MIDDLETON: Okay?

19 MS. CASPI: Does this mean I have
20 to have a pool party?

21 MR. MIDDLETON: Yes. You have to
22 invite the entire Board.

23 (Crosstalk)

24 MR. BROOKS: So with that, that is
25 the only matter we have tonight. So the

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next meeting of the Zoning Board of Appeals will be Tuesday, July 11th, 2023.

And with that, we just need a motion to adjourn?

MR. COX: Move to adjourn.

MR. BROOKS: Mr. Cox.

MR. D'ANGELO: (Raises hand.)

MR. BROOKS: Mike D'Angelo, and --

MR. MIDDLETON: Erika, do you know if there are anything -- if there's anything behind that night, the 11th?

MS. GUBITOSI: I'm not sure. It all depends if the application for 45 Bayview Court, if they resubmit in time --

MR. MIDDLETON: Okay.

MS. GUBITOSI: -- for that meeting. As of today, we haven't received anything.

MR. MIDDLETON: All right, great. Thanks.

MR. BROOKS: Thank you. All right. And so we are adjourned.

(End of Provided Recording)

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I N D E X T O E X H I B I T S

ZBA #419A
Exhibit

Description

EVD

A

Letter from James Otto,
Cross Island Pools

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ERRATA SHEET FOR THE TRANSCRIPT OF:
Hearing Name: North Haven Zoning Board
Hearing Date: June 13, 2023

CORRECTIONS					
PG	LN	NOW READS	SHOULD READ	REASON FOR	
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Date Signature

Subscribed and sworn to
before me this ____ day
of _____, 2023

Notary Public

1
2 I, Agata Davis, certify that the
3 foregoing transcript of Proceedings of the
4 Zoning Board of Appeals of the Village of
5 North Haven, held on June 13, 2023, was
6 prepared using the required electronic
7 transcription equipment and is a true and
8 accurate record of the Proceedings.
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Agata Davis
Agata Davis

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