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8 **Board Present:**

9 Doug Vaughn, Chairman
10 Doug Adil, Building Inspector
11 Michael Elsas, Member
12 Marty Cohen, Chairman of the Conservation Board
13 Patrick Cleary, Chairman of the Planning Board
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15 **Board Members Absent:**

16 Joseph Affrunti
17 Denise DeAcetis
18

19 **Officials & Appointees Present:**

20 Bruce Migatz, Village Attorney
21 Nancy Rittenhouse, Village Clerk
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23 The Pledge of Allegiance was said.
24

25 Chairman Doug Vaughn opened up the meeting and noted that “we are here to go over and render a
26 decision from all the information that we’ve gathered over the months. The ERB Board is a review
27 board we are not the ones making the final decision. We are here to make a recommendation to the
28 Board of Trustees who make the decision”. He then explained that the docks started with pilings
29 along with T’s at the end and being six feet wide. They were changed by removing the T’s at the end
30 and anchors were put in instead of pilings and the docks were narrowed from 6’ to 4’ wide and
31 chocks were added to keep the docks off the bottom. He pointed out that GEI was hired to issue
32 reports and findings for the board and a lot of information was provided from both sides. He noted
33 that we have reports from GEI dated April 14, 2017 (Exhibit I) and another report dated May 26th
34 2017 correction was made on July 31st, 2017 (Exhibit II). Regarding the GEI report they did provide
35 the board and the village a letter explaining why two reports were issued. Patrick Cleary read the
36 letter from GEI, consultant Laura Schwanof (Exhibit III).
37

38 Chairman Doug Vaughn noted that “there has been a significant amount of information provided
39 from both sides with respect to their opinions, views and findings. It is our feeling that at this time
40 we’ve procured enough information to vote on the proposed recommendation to the Board of
41 Trustees”. “I want everybody to know that unlike most of you out here tonight, our decision cannot
42 be based on feelings but rather on the information provided us and the Village Code”. He noted that
43 the ERB Board is a review board only to provide recommendations to the Board of Trustees. (Please
44 refer to the transcript dated September 25th, 2017 for detail).
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46
47 Attorney Migatz informed the chairman to make sure there is a discussion to find out how each
48 member feels about recommending approval or disapproval of the applications.
49

50 Chairman Doug Vaughn provided his reason for approving the two dock applications, but would
51 like to recommend to the Board of Trustees to reduce the amount of time that the docks could be
52 left in the water. (Please refer to the transcript dated September 25th 2017 for his detail
53 recommendation).

54
55 Conservation Board Chair, Marty Cohen provided his reason for approving the two dock
56 applications; he agreed with Doug Vaughn that we should make a positive recommendation to the
57 Board of Trustees. He noted that, "he spent a lot of time thinking about this". "I understand where
58 the people in opposition are coming from, but none-the-less after conversations with our attorney
59 and reading some of the decisions, that New York State Court decisions having to do with docks, I
60 don't think the Village has the right to outright ban docks". He went on to discuss the Village Code
61 and pointed out various points that were in the code such as significant adverse impact upon the
62 environment from a visual perspective. (Please refer to the transcript dated September 25th, 2017
63 for his detail recommendation).

64
65 Building Inspector, Doug Adil provided his reason for disapproving the two dock applications; he
66 noted that, "as Building Inspector my job is to administer Village Code; I don't know that the code
67 was written to ban docks in its early days but I don't think it's advised". He pointed out a section in
68 the code 125-22.2 and noted that the section "does say that docks destroy the open vista. We have a
69 natural resource here in the Village. It s a crescent of unobstructed beach, with the docks on the
70 north and south ends, more or less they are more at the extreme ends". (Please refer to the
71 transcript dated September 25th, 2017 for his detail recommendation).

72
73 Member of the ERB, Michael Elsas, provided his reason for disapproving the two dock applications;
74 he noted that "this was a difficult decision" "there has been a lot of money that has been spent on
75 both sides to show both environmental impacts and to show legal impacts". He noted that one of
76 the most impactful demonstrations or testimony that he heard was from a gentleman who showed
77 us visually a dock then another dock and a third dock and so on, by approving these docks it may
78 have the potential, not that it would happen. He also pointed out the approval is based on the
79 community and the community's reaction. (Please refer to the transcript dated September 25th,
80 2017 for his detail recommendation).

81
82 Planning Board Chair, Patrick Cleary, provided his reason for disapproving the two dock
83 applications; he noted that, "the applicants have done a very good job, and a professional job
84 addressing the issues and concerns that this Board has raised; and have modified as you have heard
85 the plans a number of times to mitigate some of the concerns we have raised". He pointed out three
86 primary areas for concern. The first sentence ends with that provision that, certain coastal areas of
87 Asharoken Village must be protected, then he talks about criteria, how a dock can be constructed,
88 then there is a third piece regarding alternatives. He noted that when considering these
89 applications the applicants have alternatives to a dock in their back yard. He noted that the intent of
90 this ordinance is to preserve and protect and that the applicants have alternatives to their objective.
91 (Please refer to the transcript dated September 25th, 2017 for his detail recommendation).

92
93 Patrick Cleary made a motion to recommend that the applications be disapproved, Doug Adil
94 seconded the motion.

95 Mr. Cleary In Favor
96 Mr. Adil In Favor
97 Mr. Elsas In Favor
98 Mr. Cohen Not in Favor
99 Mr. Vaughn Not in Favor

100
101 Attorney Migatz noted that "it is three to two that the application be disapproved. The code says
102 that the Board has to make a decision in writing to the Board of Trustees. You need to enunciate
103 your basis for recommending disapproval. The only thing I heard was visual concerns". "Based
104 upon your discussions, I will prepare a decision that I believe you are setting forth your grounds, I
105 will circulate it for you to review, and then you will vote on it at the next meeting and you can revise

106 it at the next meeting". Attorney Migatz asked if there were any other concerns that serve as a basis
107 for recommending disapproval.

108
109 Planning Board Chair, Patrick Cleary communicated the section 125-22(2), and pointed out the six
110 general categories, environmental issues, pollution, swimming, navigation and aesthetics in general.
111 He noted that "for each of those I would agree with the principle behind each of those". He also
112 noted that "Aesthetics; docks destroy the open beach vista, I would agree with that". Cleary also
113 noted that the "collection of flotsam, decaying marine and plant life and above the shoreline. We
114 have photographs from both sides displaying that. In my opinion it is not a clear definitive finding
115 that we have before us. I'm coming down on the side of the potential is this, and I'm not satisfied the
116 designs are completely mitigated in my mind".

117
118 Michael Elsas noted that he "agreed".

119
120 Patrick Cleary noted that the, "mooring of boats on docks results in increased near shore dumping
121 and oil and gas spillage, potential. If your dock and boat exists there, the potential for that exists".
122 He also noted that, "Erosion of sand occurs between docks and accretes along with seaweed in and
123 around docks, all of which interferes with the environmental quality of the waterfront". "Section
124 125-22 (B) Pollution, the air becomes polluted by increased engine operation from the storing,
125 running, idling and testing of boats alongside docks. I agree that the docks create the potential
126 impact for that to occur, more than in a case without the dock". He noted that the section "goes on
127 to speak about other related issues with respect to boats and cleaning and cooking on your boats. It
128 speaks to noise concerns concentrated around the piers and boats associated with the dock". He
129 noted that, "swimming along the waterfront which obviously creates hazards to health. It creates a
130 concern with respect to navigation".

131
132 Marty Cohen noted that "Isn't it worse if they are moored offshore, and sailboats come in, and there
133 are boats moored off shore."

134
135 Patrick Cleary noted that "my big thing is the aesthetics. That is my primary concern with respect to
136 that. The final one, which I have less concern, is unauthorized persons gaining access to people's
137 homes from docks. I don't think that's a particularly a large concern". "Those are my points".

138
139 Michael Elsas noted that "I would concur with all of the concerns that you talked about except
140 perhaps the one about the noise. The noise pollution and that is the only one I would disagree with.
141 All the other concerns that were just articulated I would agree with as well".

142
143 Patrick Cleary noted that, "one of my primary points is that there are alternatives to docks, and to
144 this dock, that the owner has the advantage to take advantage of and that a primary factor in my
145 decision".

146
147 Doug Adil noted that "I will restate that the open beach aesthetics would be affected. It's a natural
148 resource that once changed, will never exist again. It's what makes Asharoken unique. I think we're
149 charged with protecting this particular open beach vista".

150
151 Please refer to the transcript dated September 25th, 2017 for more details.

152
153 Attorney Migatz inquired on how fast he can get the transcript. He noted that, once he has the
154 transcript he will put the board's thoughts into a decision and will circulate it, and make revisions
155 to it and then the board will meet and can vote on it.

156
157 Chairman Vaughn adjourned the meeting and will reconvene to October 30, 2017 at 7:00pm.

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159 The September 25th, 2017 Board meeting of the Environmental Review Board was adjourned at
160 approximately 7:40 pm.

161 Signed: _____
162 Nancy Rittenhouse, Village Clerk