

**ZONING BOARD OF APPEALS
VILLAGE OF SOUTHAMPTON
APRIL 25, 2019
PUBLIC HEARING**

Due notice having been given, the public hearing of the Zoning Board of Appeals for the Village of Southampton was held in the Board room of the Municipal Building, 23 Main Street, Southampton, NY on Thursday, April 25, 2019 at 6:00 p.m.

Board members Chair Rob Devinney, Mark Greenwald, Kevin Guidera, Dan Guzewicz and James Zuhusky were present.

Counsel for the Board Elbert W. Robinson, Jr. was present. Environmental Planning Consultant Chic Voorhis was present.

Chair Devinney opened the meeting.

MINUTE APPROVAL

MOTION by D. Guzewicz, second M. Greenwald

To approve the minutes for the March 19, 2019 work session and the March 28, 2019 public hearing.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

PENDING DECISIONS

On the application of **MCDONALD'S USA LLC**, 307 North Sea Road, there is a written decision in the file.

MOTION by K. Guidera, second D. Guzewicz

To approve the written decision on the application of MCDONALD'S USA LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **REDCRAFT LLC**, 420 Ox Pasture Road, there is a written decision in the file.

MOTION by K. Guidera, second D. Guzewicz

To approve the written decision on the application of REDCRAFT LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **CAPTAINS NECK REALTY LLC**, 509 Captains Neck Lane, this application is to be reopened.

MOTION by K. Guidera, second D. Guzewicz

To reopen the application of CAPTAINS NECK REALTY LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **ANTHONY ALBANESE**, 64 Armande Street, there is a written decision in the file that reflects an amendment of a prior decision.

MOTION by K. Guidera, second M. Greenwald

To approve the amended written decision on the application of ANTHONY ALBANESE.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

PENDING CASES

On the application of **CAPTAINS NECK REALTY LLC**, 509 Captains Neck Lane, present for the applicant was Frank Eisler. They removed the heat and added a stair case to the plan up to the storage area, they are fully compliant as to all setbacks. K. Guidera stated they have problem with the height, 16' is the code and they don't see a reason for the 23'.

John Kean, Kean Development, they feel that 23' is more in keeping with the size of the house. Chair stated it is a self-imposed hardship. D. Guzewicz stated that they haven't seen any renderings to see scale. Eisler stated that would be something that the ARB would consider as to scale. D. Guzewicz stated that the Kean Development was a unique subdivision; they did not want a lot of tall garages popping up across the Village. F. Eisler states that the impact from the surrounding community is non-existent. The immediate neighbor has no objection. It is completely hidden from all neighbors. The house is fully compliant with zoning.

D. Guzewicz stated that it looks like there will be finished space above the garage, he feels that it can be easily converted into habitable space. It looks like an apartment waiting to happen. Chair Devinney stated they are concerned about the Village as a whole, there is impact to the community regarding precedent. Regarding vehicles, he stated that they can be housed at other locations. Counsel Robinson stated that it is 9 acres and it is sub dividable it could be a 4-acre lot.

J. Kean noted they will stipulate that the garages will come down if that were to happen. D. Guzewicz asked about the ceiling to be raised in the garage; F. Eisler stated that they desire storage space. Chair Devinney asked about four garages with no storage, it seems strange. K. Guidera stated that they are not a Board that changes zoning. F. Eisler stated this Board is to decide exceptions to zoning, he feels that it is not a precedent, because each case is individual. The Board feels it is entirely self-imposed, there is no reason to grant the variance. Chair Devinney stated it becomes a slippery slope if they grant the variance. D. Guzewicz stated that the second floor is designed with gables and dormers and looks like living space. F. Eisler stated that is by design so it blends with the primary residence.

Counsel Robinson asked about referring to ARB, K. Guidera stated they need to decide it first. J. Kean states it is not setting a precedent in his opinion. D. Guzewicz asked about attaching the garage to the house to for the extra height. They cannot attach the garage because they are maxed out with GFA on the primary residence. The Board stated that the heat has been removed but they realize they will return with the request, later.

MOTION by K. Guidera, D. Guzewicz

To close on the application of CAPTAIN'S NECK REALTY LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **PHILIP EDWARDS**, 86 Pine Street, present for the applicant was Gil Flanagan. J. Zuhusky is recused from this application. The question was raised as to the validity of the use as to non-conforming because of the retail store. They will proceed with an alternate approach to the application. He has a submittal with attachments regarding the alternate approach. This lot is not in the historic

district, the building will not be enlarged, the second access at south which has projections will be removed or relocated for 12-15' on the edge of the property. When you have property with more than 100' of frontage, the code provides for two curb cuts, this property meets that. The off-street parking meets the code. There are four off street parking spots. The southerly house would be one bedroom. This is a good design for safety reasons, it will eliminate piggy back parking. This design makes that unnecessary and provides for separate residences on the site. The up to date IA sanitary system will work with their plan and that will be installed. They will meet all Health Department requirements. The conditions on site will make it work.

D. Guzewicz asked will they take down the shop? G. Flanagan stated, no they will just be adding a bay window. There will be a second curb cut to the south, they will eliminate the window wells and relocate the electrical meter. April 11, 2019 survey shows the removal of the window wells and electric meter. D. Guzewicz does not see the septic being covered for both, G. Flanagan will confirm that both are covered. They will want to see a complete design that includes the septic that will be used. M. Greenwald asked about the number of guest houses and multifamily houses in the area. The table he submitted shows all those multifamily homes. He obtained the information from the Village and it is in keeping with the area. He represents that it is common in this neighborhood. The record should show that there are neighbors who have submitted letters of support. M. Greenwald stated that it seems that the footprint they are removing seems the same size as the shop, they could have removed the building. G. Flanagan stated that they are reducing lot coverage by 400 square feet, it is the same density. D. Guzewicz asked about floor plans, G. Flanagan stated that they were submitted. They will have a 3-bedroom residence and a 1-bedroom residence, both separate. G. Flanagan feels that this is the best solution for this property, and if this application is not granted, what will happen to that building, it could be retail again but there is no street parking. His submittal contains all these comments. There are no buried tanks, it is natural gas. East End Environmental studied that and they have a report. This is a one-way street; the traffic is lessened. Getting parking off the street is a plus. Counsel Robinson stated that it could become a single-family residence, G. Flanagan stated it fits in the neighborhood as multi-family.

Jim McFarland, neighbor, he feels the issue is whether this should be allowed, he feels that if it was an old timer with need it would be different. He is against this application and feels it sounds like spot zoning.

Gil Flanagan stated that single family dwelling is a conforming use, this is area type relief. There is a decision to support that position in his submittal. It could be retail use in a residential zone which is not preferable for the neighborhood.

MOTION by K. Guidera, seconded by D. Guzewicz

Close on the application of PHILIP EDWARDS, subject to septic system design.

On Vote: Chair Devinney, M. Greenwald, K. Guidera and D. Guzewicz

Recused: J. Zuhusky

On the application of **SL II 405 LLC**, 405 Captains Neck Lane, no one was present for the applicant. C. Voorhis stated that they received the updated plan and there are no outstanding questions, he has a drafted a permit ready for approval. They are removing an existing pier away from the property line. The application is complete.

MOTION by K. Guidera, second D. Guzewicz

To approve the wetland permit as prepared by Village Environmental Consultant on the application of SL II 405 LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **MERCEDES COUNIHAN**, 21 Hillcrest Avenue, present for the applicant was herself and Emmanuel Roumeliotis. She obtained and submitted the original survey; the original setbacks are 13.4'. The Board requested the surveys of houses neighboring, they demonstrate setbacks of 19.2' and 14.2'. The house across the street is 14.3'. Those surveys have been submitted to the file. The original deeds for 17 and 21 have been submitted, as well as a picture of the variance sign. There are several homes with less than 20' setback on Hillcrest, 23.2' is the largest. There are photos of the original house and updated prints show a change in the pool size to 14'x29', with a railing. M. Greenwald asked if the addition is still 25' back? M. Counihan answered yes, the principal building. There is no room for 10' setback for parking spot, they can make it deeper for parking and show the one space as 10' from road. She will submit that to the Board prior to the next work session.

MOTION by K. Guidera, second M. Greenwald

To close on the application of MERCEDES COUNIHAN subject to submittal of parking survey.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

MODIFICATION OF PREVIOUSLY ISSUED PERMIT

On the application of **FHW LIMITED PARTNERSHIP LTD**, 137 & 153 Pond Lane, the modifications have been discussed. James Zuhusky is recused from this application. Grant Wellman, Araiys Design, was present for the applicant. This is a modification to the plans that were previously permitted. Since that time there was some disturbance to the property beyond what was specified and approved in the plans. They developed mitigation plans after meeting with C. Voorhis. The plan was shown to the Board with photos and the area of disturbance was shown.

Counsel asked how it happened, G. Wellman stated that it was communication between the owner and contractor. Counsel asked was the area demarked. There was silt fence installed on the easterly side, limit of work never delineated. The contractor worked from inside the property and walked through the area where they should not have been working. C. Voorhis noted that there were several trees in a proposed rain garden that were left but some were removed that were not supposed to be removed. Those trees that stand will remain per C. Voorhis. They are in violation and are not happy, but this is a solution. C. Voorhis did not see runoff after the rain. G. Wellman noted that the soil is sandy there, there is no sedimentation on silt fence. Counsel stated that in the letter the owner is at a loss to explain what occurred. All the Boards have a problem with people who are going against decisions and then asking for forgiveness after the fact.

G. Wellman noted that the owner is aware that the Board is not happy with this situation. D. Guzewicz asked if the net result of the modified plan better or on balance. Chic feels it is better to have the trees that are remaining than not, the outcome will be an improvement. In the original application they showed it was farmland since the 30's, everything will be healthy natives and the invasive will be gone. C. Voorhis has the modification plan to the permit ready for approval.

MOTION by K. Guidera, second D. Guzewicz

Approve the permit that recognizes the modified plan on the application of FHW LIMITED PARTNERSHIP LTD.

On Vote: Chair Devinney, M. Greenwald, K. Guidera and D. Guzewicz
Recused: J. Zuhusky

NEW CASES

On the application of **PHILIP & LINDA SIMOTAS**, 1485 Meadow Lane, Kim Stephens from En-Consultants was present for the applicant. Affidavits of mailing and posting were submitted. The applicant would like to request an adjournment.

MOTION by K. Guidera, seconded D. Guzewicz

To approve the applicants request to adjourn on the application of PHILIP & LINDA SIMOTAS.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **ANDREW & DANA STONE**, 527 Meadow Lane, present for the applicant was Billy Mack, there is an existing wall that is 187' that was built with concrete and terracotta. It has some retention on it and has failed. This wall has been on this property for a very long time and extends through the property, it is a boundary line wall. It acts like more of a retention wall, there is development further down and there was some hydraulic pressure that caused it to fail. They would like to replace with a wall that can withstand the pressure. D. Guzewicz stated that there may not be a need for a wall, maybe it should just go away. The applicant prefers to retain it, it is a glorified fence. It varies from 4-6'. M. Greenwald asked the environmental impact; B. Mack stated that he feels it is more sensitive to build as bulkhead. They prefer not to put footings.

C. Voorhis stated that there is no good reason to rebuild the wall. They have no information on the property to the west, the wetlands are well into the property and he would like tidal activity flow. It disrupts the flow and this bulkhead does not seem like a good idea environmentally. It impeded wildlife and waterflow and it causes scouring. His preference is to have the rubble removed. He can't justify this being built.

Their plan was to come up with the least invasive way to rebuild the wall, D. Guzewicz stated that a fence would be the least invasive. They would need a lot more information, but the Board feels that there is no benefit to the environment to grant that. There is runoff from the other property, and it has undermined the wall. J. Zuhusky asked about the runoff management of the neighboring property, there was relief granted to the neighboring home. There were buffer areas imposed under previous relief. B. Mack would like the opportunity to meet with C. Voorhis at the site and asked for an adjournment.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicants request for adjournment on the application of ANDREW & DANA STONE.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **LIFTON GREEN LLC**, 270 Ox Pasture Road, present for the applicant is John Bennett. M. Greenwald is recused from this application. Affidavits of mailing and posting were submitted. They have a plan for a house at the property and there is an existing single-family residence and garage. This house is a contributing structure in the historic district. Redevelopment has created some issues; he thinks what they have presented is the preferred manner. They are requesting the historic single-family residence be moved 90' from Ox Pasture Road to make more visible to the street, and to permit conversion to guest house so that a new single-family residence can be built that is more

in keeping with houses in the neighborhood. The other manner is to try to put an addition onto the house. The ARB doesn't prefer that manner; they prefer to preserve the structure. The other option was approved some years ago two lots to the east. It was the gardener's house that had an attached greenhouse, they took that house and they made it a wing of a much larger house. The treatment of the house there probably would not be in favor with the current ARB. The structure became consumed by the new house.

K. Guidera stated they can add onto this 3900 square foot. The proposed house is 9,031. They would have to add on 5000 square feet, and it would be larger than the existing house. He feels the moving of the house is the best proposal. A similar decision was granted on Cooper's Neck Lane a couple of years ago. There is precedent for it, it is similar in size. The whole idea is instead of trying to chop it up, they make that contributing structure more visible and a guest house. They feel this does much less damage that way and they will renovate the structure. Under the code, the procedure is to refer to the ARB. It is slated to be heard by ARB; this Board must refer it first.

D. Guzewicz is not opposed to what is being presented after the ARB approval. They will need relief for accessory structure greater than 800 square feet. They will need pre-existing non-conforming relief as well.

B. Lifton stated it is in the accessory use in front of the principal residence. They will covenant that it will be guest use only. The front of the house fronts the street.

Morgan Grace, neighbor to the west and south, asked if this house that currently exists is a contributing structure, can they tell him what it is contributing to? Counsel stated that the status is contributing in the Historic District. There was some concern about the height, he noticed that there is a porch that is elevated, he is wondering could that height be reduced by a yard or so which would mitigate the mass of the building. Can the elevation be reduced; the new foundation can be lowered? B. Lifton stated that if he is allowed, he will bring down the height, however, since it is contributing that may not be allowed. **It will change the façade of the house according to J. Zuhusky.** They aren't sure it can be done. The Grace's don't like the structure and they would like to see it less. D. Guzewicz asked if the new location will have less of an impact, he stated yes. On a diagram he showed that they see the existing house. B. Lifton plans to landscape plantings for privacy. Chair Devinney asked about two cabanas for the pool house; it is considered one building even though they are separate they are connected by trellis. Lastly, the telephone poles on the west, that is their gravel driveway. J. Bennett stated that there is a utility pole that feeds to the Grace house, they intend to come in for the utilities from Ox Pasture Road unless utilities say they can't. The transformer is not accessible by PSEG currently due to the Grace residence gates.

Nica Strunk, she represents Mary Ann Ty, the neighbor, she has no objection to this application.

MOTION by K. Guidera, seconded D. Guzewicz

To authorize village attorney to write a letter of referral to ARB on the application of LIFTON GREEN LLC.

On Vote: Chair Devinney, K. Guidera, D. Guzewicz and J. Zuhusky

Recused: M. Greenwald

On the application of **RED MAPLES LLC**, 261 Great Plains Road, Nica Strunk was present for the applicant. Affidavits of mailing and posting were submitted. This is 2-acre parcel, this is single and

separate, but the owner owns the adjacent properties as well. She would like to transform it to an extensive garden. Voorhis and Sheeran are architects on the plan. It has structures within it. There is a folly, it is 225 square feet, it is an accessory structure without primary structure, it is taller than allowed for accessory structure, that is 35'.

It will be a potting shed and small reading room. There are no HVAC or bathrooms. It is a contemplative space; it is minimal as to what could be developed. She has spoken to her client regarding the concern about selling it, she will covenant demolishing it in the future if selling. It will read as one lot but will be single and separate. D. Guzewicz stated that the height is an issue and the use other than potting shed. This property and two adjoining properties were part of the Red Maples estate. That has been the inspiration for the properties she owns. This garden pays homage to that structure. The neighbor, Siamek Samii, have no objection to this. The folly overlooks the garden. K. Guidera stated they are asking them to overcome two very large zoning hurdles. This will set a precedent; it is a tough one. It will go from folly to garages. Counsel asked the height of the first floor, it is 12'. The total height is 35'. M. Greenwald asked will they covenant that this will be taking it down if the property is sold? Yes, they will covenant.

James Sheeran and Dick Voorhis were present regarding the folly design. A submittal of follies was presented to show the use. The roof is not accessible, that provides light for the reading room only. The garden is the view shed from the second floor. The balcony on the front is operable. The sundial on the front is operational. The reference is 18th century. There is precedent of follies on Long Island. Cobb Lane was built as a folly. The former Parrish House had a folly as well. They showed many examples of follies. They have several elements in addition to the sundial, they have trellis on the back wall, they have a weathervane, they have a balcony that looks out. There is a fireplace on the second floor. The sink of the potting shed is attached to the irrigation system. It cannot be seen from the street; they want to preserve original trees and are bringing in new screening. They are bringing in ornamentals that will surround the building, it is completely ensconced. A shorter folly would not work with the scale of the garden or open space. D. Guzewicz stated they have never granted a 35' structure without a primary, it is a difficult stretch for the Board. It is in the setback and could be incorporated to a house in the future since it is conforming spot. M. Greenwald asked about the entry, do they have parking? Where do they go? The intent of the driveway is to serve as access to the back of the 250 property, in case a truck comes to prune. The parcel at 261 has an easement in place that benefits the two parcels on Ox Pasture Road. D. Guzewicz asked if they have something that shows how this integrates with the other property. The driveway is for service access. This garden will not require a lot of maintenance, they are keeping trees and adding new trees. More naturalistic, less formal. There is an existing foundation wall that is elevated, and they will add a stair to make an esplanade. The garden is impressive, but the Chair feels the height is a problem. The request bumps up against two or three zoning issues. The intent is that the owner will come from the north and walk back into the garden.

Counsel stated the covenant would be for any addition, the owner waives right as justification for another variance. The accessory water feature will need relief as well, it contains a filtering system. The request doesn't have the water feature as part of the relief. They can fence the whole property for the water feature. N. Strunk stated that they will make it the minimum water level that does not need fencing. J. Zuhusky asked about the Fire Marshall for that second story, N. Strunk will follow up with the Fire Marshall. D. Guzewicz desires more information of the need for a potting shed in the naturalistic garden, it's being called a potting shed, but he doesn't understand the need for high ceilings in a potting shed structure. The Board has a problem with the height request.

MOTION by K. Guidera, seconded D. Guzewicz

To approve the applicants request to adjourn on the application of RED MAPLES LLC.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

ADJOURNMENTS

On the application of **AKIVA GOLDSMAN SEPARATE PROPERTY TRUST**, 1431 Meadow Lane, a letter was received requesting adjournment to the May 23, 2019 public hearing.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicants request for adjournment on the application of AKIVA GOLDSMAN SEPARATE PROPERTY TRUST.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **SPUR**, 630 Hampton Road, the applicant requests adjournment to the May 23, 2019.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicants request for adjournment on the application of SPUR.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

On the application of **JOHN DANIELSON**, 30 Sanford Place, a letter was received requesting adjournment to the June 27th public hearing.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicants request for adjournment on the application of JOHN DANIELSON.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

MOTION by K. Guidera, second D. Guzewicz

To close the meeting.

On Vote: Chair Devinney, M. Greenwald, K. Guidera, D. Guzewicz and J. Zuhusky

Respectfully Submitted by:

JoLee Sanchez

File Date: _____

Village Clerk