

**ZONING BOARD OF APPEALS  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2018  
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, June 28, 2018 at 6:00 p.m.

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

Counsel for the Board Elbert W. Robinson and Wayne Bruyn were present. Environmental Planning Consultant Chic Voorhis was present.

Chair Guidera opened the meeting.

**PENDING DECISIONS**

On the application of **BEECHWOOD LATCH, LLC**, 101 Hill Street, this application is closed but is receiving written submissions until July 17, 2018. There will be no decision tonight.

**EXTENSIONS**

On the application of **640 OX PASTURE LLC**, 640 Ox Pasture Road, the applicant has requested an extension for their Wetlands Permits that were granted by this Board, construction has not proceeded at rate they hoped so they need an extension.

Motion by R. Devinney, seconded by D. Guzewicz

**To grant an extension on the application of 640 OX PASTURE LLC.**

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

On the application of **472 FIRST NECK LANE LLC**, 472 First Neck Lane, the applicant has requested an extension for an existing Wetlands permit.

Motion by R. Devinney, seconded by D. Guzewicz

**To grant an extension on the application of 472 FIRST NECK LANE LLC.**

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

**PENDING CASES**

On the application of **CHRISTOPHER AND JEANNE LYNCH**, 58 Rosko Drive, present for the applicant was John Bennett and affidavits of mailing and posting were submitted. Counsel Wayne Bruyn is recused from this application. There is a conflict of Boards on this application according to J. Bennett. The ARB would prefer a house that is not elongated that requires the pool be placed behind. He realizes this Board is not constrained by that, however, he is in a situation where a homeowner purchased a piece of

property and then looked at the property to the East where a front yard variance was granted and for even greater relief that is being requested and felt that there would be no issue with relief.

J. Bennett showed alternative site plans, the preferred is labeled A. It puts the pool at 52' from Rosko, it meets all the setbacks, but relief is needed for it to be in a front yard. Plan A is the plan that the ARB is in support of. Other alternatives require additional relief, he feels the A plan is optimum.

D. Guzewicz was hoping for a house redesign and possibly turn the pool another direction. He stated that the house needs to be redesigned to fit the pool. J. Bennett stated that the ARB will not approve the plan any other way. D. Guzewicz felt that that design was poor, it seemed it was just an addition of a hallway with no real purpose. It did not really make the pool behind the house, he'd like to see a redesign with a majority of the pool behind the house. J. Bennett stated it is not behind the house only on the Southerly side where no neighbors had an issue with it.

J. Bennett stated this lot does support a pool because this lot is large enough and more relief has been given by this Board in the past to similar parcels. The neighbors do not like it, but it will not affect them at all. The detriment to his client is economic. He challenges anyone to find a detriment to the neighbors. He stated the Browning case in Dering Harbor in which a front yard porch was requested and the Court supported his right to do it since there was no detriment whatsoever to the neighbors.

D. Guzewicz stated it is a blank lot and the house and pool can be designed for less relief. J. Bennett stated that he is hemmed in by the ARB. Chair Guidera stated that the first pool was 13' wide, the new one is 18'x28'. J. Bennett has site plan A and then B was for the neighbor Weinfert, he shifted the pool for his objection. Chair Guidera stated that Plan C needed less relief, if the pool is moved West up 5' then there is 52'. J. Bennett noted that is Plan A, that shows the pool moved, not C. Chair Guidera stated that they are trying to get the least amount of relief. Counsel Robinson stated that the ARB wants a redesign, J. Bennett stated he is not redesigning the house. He stated the ARB is happy with site plan A.

J. Bennett feels the Board seems to speak with the same voice. Chair stated they don't always share the same vote. The neighbors did not like the fact that the people came before them knowing the restrictions on the lot when they purchased the home. D. Guzewicz stated it seems that there has been no new design, they were hoping for that.

J. Bennett prefers the site plan A. All setbacks are met, he doesn't meet the code that it be in the front yard. He feels this is in line with request for relief in the past, it is a textbook practical difficulty.

There were two letters sent, one from the owner and one from Mr. Smith for submission into the file. The letter from the owners wants to know when they would have a decision, they have been waiting patiently through a long process.

Fred Weinfert, 45 Rosko Drive, he wants to go on the record stating that its not about his preference, his problem is the precedent for his community. He feels it will affect precedent Village wide. The parcel is a peninsula, its unique. He feels the house can be scaled back to fit a pool, he feels the house is overpowering and over developing the lot.

Robert Smith, 5 Adams Lane, he feels the development of a precedent is the real issue. The zoning of the Village states that there will be no pools in front yards. He feels that a maximum size home and a

pool is too much. The proposal before them he doesn't completely understand. He showed pictures of where the pool is proposed, and he feels it will be seen. The Board mentioned it will be screened. The site plans are all written from the original survey. The pool increase from 13x28 to 18x28 bothers him, he feels that they look identical on the plan, something seems off to him with the survey. He also feels that landscape plans need to be part of this file.

J. Bennett stated the 13 is a typo, the correct measurement should have always been 18x28. He also met with the Village regarding fencing and landscape, there is a very detailed landscape plan because of the unique nature of the lot. He feels that there is no harm to the neighbors, in their own words they stated that they have no problem with the pool. The fact they feel the house should be smaller is not the purview of this Board. He stated that in other cases that he has come before this Board they have been favorable because they met the setbacks, he cited a Burnett street case that was approved. He feels precedent is not a problem because it is a rare lot.

Fred Weinfert clarified that he doesn't have a problem with pools when they conform with zoning.

Robert Smith stated that they don't want words put in their mouth, he feels that there is a problem with this pool. He feels it is dangerous to develop this lot because of an S curve that makes for blind spots.

R. Devinney stated he doesn't see the danger they are discussing, Smith stated it is an S-curve and that is why the fence was removed. J. Bennett stated that they met with the Building Department and they stated that they conform, the 6' fence was the only non-conforming thing. They took down the fence. He stated they are willing to comply with all landscape requirements. R. Devinney stated the landscape may help ease the problems with the S curve.

Counsel stated this is a repost of the file, does he intend to have this new file contain the former evidence? J. Bennett requested that he would like to include prior evidence from prior hearings from this application. He renoticed for compliance because of the re-opening of the application. The first application was withdrawn. Counsel stated that those documents are being requested to be part of this file. Counsel asked is there a certified survey that shows the location of the pool and the size? J. Bennett stated they will check, current survey shows the correct dimensions, but the surveyor improperly labeled the dimension as 13', he will have that corrected and submitted. Counsel Robinson asked about a landscaping plan, is it valid and what is it dated? J. Bennett stated yes. The Board is satisfied with the landscape plan. Counsel stated to add the limitation of the buffer to the landscape plan. Counsel asked if the GFA complies with the new amended laws? J. Bennett stated that he believes it does or it will, they will make it, it may be grandfathered in. Counsel wants it on the survey. Counsel stated in a letter received by the Lynch's today, it states that they conducted a due diligence prior to purchase of the property, including a building permit of a house and a pool that showed what could be developed on the property. Do we have a copy of the building permit? J. Bennett stated it is in the file. This permit was issued ten years ago. The previous owners were issued the building permit. Counsel wants that produced. So, an amended survey with pool dimension correction, the landscape plan, the building permit and a statement of compliance or grandfathered of the new GFA law are requested to make the file complete.

J. Bennett would like the application closed subject to written submission. Will it be in by the work session? J. Bennett stated that yes, he can have it submitted by the work session. Chair Guidera prefers to close.

Motion by R. Devinney, seconded by D. Guzewicz

**To close on the application of CHRISTOPHER AND JEANNE LYNCH.**

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

## **NEW CASES**

Counsel Wayne Bruyn was present for the new cases.

On the application of **WILLIAM AND LARA MCLANAHAN**, 131 Lee Avenue, this application is adjourned to the July 26, 2018 meeting.

Motion by R. Devinney, seconded D. Guzewicz

**To adjourn for all purposes to the July 26, 2018 public hearing on the application of WILLIAM AND LARA MCLANAHAN.**

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

On the application of **SOUTHAMPTON RE PARTNERS LLC**, 85 Down East, James Zuhusky is recused from this application. Present for the applicant was Gil Flanagan, affidavits of mailing and posting were submitted. This is for a wetlands special permit for continuing of a planting scheme for 95 Down East Lane, it is an extension from what was already granted for that application. He submitted a type of planting that they would like to use on the site, it's in the file. There were many PB limits that are covenanted in before it was granted. They will be under the max nitrogen limit that was imposed by the PB. The two proposals together equal 2.7 parts per million. The current condition produces 6.6 so it brings it down 2/3, a significant improvement. He asked that the same seed mix be used on 95 Down East as a revision, he's not sure if it needs a formal request on the record. Counsel Bruyn stated that for the record they need that request. It is a minor element, they are providing for specificity, it will be enhancing an approval.

Emily Rabbe, InterScience, she showed a composite of 85 and 95 Down East, they submitted on June 19<sup>th</sup> copies of the planting plan and a letter asking for opinion on it. This is the adjusted seed mix request, extending what was used. She submitted photos of existing conditions and she also submitted a plan for the planting. She submitted a photo of what is being proposed. There will only be 2300 square foot left of lawn when completed.

C. Voorhis stated the lawn is outside the 125' setback. She stated there will be apple orchards and native fescues around them. It is an extension of 95 Down East. D. Guzewicz asked about the phragmite removal, it will be cut down and dug out. Is there a methodology to that? E. Rabbe stated that the existing conditions are included, and she provided a written methodology. All tools used will be hand held, no heavy machinery. C. Voorhis stated that the application is an extension. R. Devinney asked will pesticides be used on the apple orchards that will be planted, she stated that on Page 8 of the AEF stated it needs to be organic pesticide.

C. Voorhis agrees with what E. Rabbe represented, his firm has reviewed all the conditions and SEQRA findings and it is a dream project to him. It restores a large area to natural vegetation. He stated she accurately represented their meetings and he is not sure if they have jurisdiction of the 125' setback but other than that he is satisfied. He stated that if you go back to 95 Down East, he reviewed the seed mix, he stated they can update the 95 Down East permit of the revised plan just for specificity. He can prepare that for the next meeting.

Motion by R. Devinney, seconded by D. Guzewicz

**To close on the application of SOUTHAMPTON RE PARTNERS LLC.**

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

Recused: J. Zuhusky

On the application of **MADISON AVE CAPITAL PTNRS INC**, 1323 Meadow Lane, Mark Greenwald is recused from this application. Present for the applicant was John Bennett, he submitted the affidavits of mailing and postings. The property is two lots that were merged, it is a large lot. He presented a plan for relief for 20'. Required is 80' they want to put the house at 60' to protect the Wetlands. They want to demolish an existing house, currently it hugs the Wetlands. It is currently 38' from the Wetlands. He wants to plot the house 50' from Wetlands. It will be a new AI sanitation system. It is currently 3900 square feet, it will be reduced to 3573 square feet, they will need some Pyramid Relief. They need to renotice that request since it was left off the original request. Counsel asked why they need Pyramid Relief? J. Bennet responded that the sky plane on Meadow Lane they will need quite of bit of relief, about 17,000 cubic feet. He feels it is because of the sky plane laws they were looking at lots that were Ocean front in most instances achieve the 80' setback. This lot can't be achieved with those requirements. V1 is the request of relief from the sky plane ordinance. V1-3 is where the requested relief, relief from Meadow Lane Overlay District requirements. The North side of Meadow Lane was not really considered during those requirements. He stated that it is consistent with the character of the neighborhood.

R. Devinney asked if there is a balcony on the flat roof, they found it inappropriate in the past, J. Bennett stated they will withdraw the roof deck. Consider that withdrawn.

The existing house is at 38', it will be at 50'. The new house will comply with FEMA requirements, they will elevate the pool, so it will be FEMA. The buffer area will be adjacent to the Wetlands with native plantings. They will submit a chart that shows the relief necessary of proposed vs. existing.

Grant Wellman, Aeris Design, submitted a set of plans that outlines the proposed landscape design. They have an existing conditions plan, demo and removal plan, they have included construction methodology and staging and site plan. Minimal hardscape is proposed, a simple driveway proposed. They are also calling for a permeable driveway and they have a drainage plan, it will be a track drain on Meadow Lane. They are including a grading and drainage plan, as well as conventional precast drywells. Planting plan of revegetation of the buffer, it is switch grass, beach plum and other typical vegetation to the area. There is a net cut of 73 yards, they won't import fill. D. Guzewicz stated that there seems to be a lot of lawn on the North side, he stated that it seems inappropriate to the area. C. Voorhis felt it needs to be downsized. Most designs on Meadow Lane have limited lawn. J. Bennett stated that they will scale that back. D. Guzewicz asked about the construction methodology, he wants a close look to make sure the Wetland is protected. Parking may have to be off site suggested J. Bennett. G. Wellman stated it is a conservative plan, but he is happy to make notations for off site parking. They don't want congestion on Dune Road. D. Guzewicz stated they will need a bond on this project. C. Voorhis agreed it is necessary.

Counsel Bruyn suggested that the chart with existing condition to proposed for the sky plane about the Wetlands be provided. D. Guzewicz asked if they are doing geothermal? G. Wellman stated that no they are not. The HERS application has not been done on this project yet added J. Bennett. R. Devinney asked if there is a staircase up to the roof deck. Mehran, the architect, for a 3900 square foot house

geothermal will not be used but will have solar panels, he stated they will need a staircase to access the panels.

C. Voorhis stated he flagged this in 2015, there have been no changes since that time. The neighboring property has no docks, catwalks, etc. He had a preliminary review, overall, there are many improvements. He'd like to review the chart submitted tonight. The Overlay District predated him, but he will review with Counsel Bruyn. He feels that it was applied to North as well, but he feels it needs to be analyzed closer. He asked Grant the drainage, is it minimal? He stated to put on the survey the current drainage. He would like the drainage to be in the area with structure. He mentioned a net cut, but he didn't see it on the plan, Grant stated it is on the plan, C. Voorhis stated he'd like to see it on the survey. The only other problems are small discrepancies, such as test hole location, he prepared a memo to help them edit and address the comments. That memo was submitted to the Board by C. Voorhis.

J. Bennett stated to C. Voorhis that when he was referring to the overlay district, he was referring to the recent sky plane. He clarified the zoning code amendments was mostly concerning ocean front lots, those are much more achievable. Clearly, the overlay district applies to the North side. D. Guzewicz asked if the lots East and West are buildable? The West is merged lots. J. Bennett was not sure about the East lot.

Motion by R. Devinney, seconded by D. Guzewicz

**To adjourn for all purposes on the application of MADISON AVE CAPITAL PTNRS INC.**

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

Recused: M. Greenwald

Motion by Chair Guidera

**To close the meeting.**

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

Respectfully Submitted by:

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JoLee Sanchez

File Date: \_\_\_\_\_

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Village Clerk