

**ZONING BOARD OF APPEALS
VILLAGE OF SOUTHAMPTON
AUGUST 22, 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, August 22, 2019 at 6:00 p.m.

Board members Kevin Guidera, Mark Greenwald, Dan Guzewicz and James Zuhusky were present. Chair Rob Devinney was absent. Kevin Guidera sat as chair for this hearing.

Counsel for the Board Wayne Bruyn and Environmental Planning Consultant Chic Voorhis were present.

Chair Guidera opened the meeting.

PENDING DECISIONS

On the application of **MICHAEL & SYLVIA RUTHERFORD**, 33 Great Plains Road, a written decision will be added to the file.

MOTION by J. Zuhusky, second by D. Guzewicz

To approve the application of MICHAEL & SYLVIA RUTHERFORD.

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

On the application of **CONSTANCE HUNTER**, 170 Pulaski Street, the applicant wrote a letter to withdraw the application.

ADJOURNMENTS

On the application of **LIFTON GREEN LLC**, 270 Ox Pasture Road, M. Greenwald is recused from this application. This application is pending advisory report from the ARB.

MOTION by J. Zuhusky, second D. Guzewicz

To adjourn for all purposes on the application of LIFTON GREEN LLC.

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

Recused: M. Greenwald

On the application of **MEREDITH JOYCE TRUST**, 765 Hill Street, this application is pending advisory report from the ARB.

MOTION by J. Zuhusky, second D. Guzewicz

To adjourn for all purposes on the application of MEREDITH JOYCE TRUST.

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

On the application of **ANDREW & DANA STONE**, 527 Meadow Lane, there is a letter requesting adjournment.

MOTION by J. Zuhusky, second D. Guzewicz

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

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

On the application of **COMMUNITY BAPTIST CHURCH**, 16 Rev Raymond Lee Court, there is a letter requesting adjournment.

MOTION by J. Zuhusky, second D. Guzewicz

To approve the applicant's request for adjournment on the application of COMMUNITY BAPTIST CHURCH.

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

PENDING CASES

On the application of **RED MAPLES LLC**, 261 Great Plains, present for the applicant is Mica Strunk. Affidavits of mailing and posting were submitted. Present is Siamek Samii, the architect. This is a flag lot off Great Plains Road. Ms. Ty also owns the two parcels to the north that adjoin. A map was presented showing the properties. The property is a little over two acres, it is not developed. Right now the property has specimen trees that are original to the estate. Ms. Ty's intention is a dedicated garden space. Siamek Samii has designed a two-story structure that fits into gardens in the estate section. She is here for a variance, but this complies with all zoning, except the size of the dwelling. The only other proposed structure is the reflecting pool which is compliant. It is smaller than the minimal floor area requirements. The purposes of the owner does not require a large structure. It is wasteful to build such a large structure; it will not be substandard in any way. It will be built to the highest standards. This is opposite type of variance that is usually requested.

M. Strunk brought out the reason for the code having minimum size does not apply with this application, there is no public health concerns. This structure is not going to be used as a residence. Counsel stated that they made this case once before, M. Strunk stated that it is similar but there is a difference. The design has been improved as per proportion; each floor is 340 square feet. It is smaller than the last request. The statute is to protect from substandard neighborhoods, it is fully screened and will add to the neighborhood. The layers of mature trees are thick. Certainly every neighbor is happy with the request and supportive. M. Strunk stated the Board was concerned about accessory structures, the owner is happy to covenant that there will be no additional accessory structures, with the exception, of possibly a gazebo. The other concern is that it would become an accessory in the future. She stated that the future owner would have to adapt the house to code or tear down. All those concessions are part of this application. Both floors are 340 square feet. M. Greenwald had a question for Siamek Samii, his question was the first-floor elevation of 26'. Basically this is being built on the platform of the original burnt down estate. The trees are from 1905, the platform dates to when the original estate was built. The platform is 24', and the overall height is 35'. There are remnants of the retaining wall around the property as well. D. Guzewicz stated that from natural grade they are 35'. D. Guzewicz asked if reflecting pool has a circulating system attached to it, he asked where the equipment would be. They will have that, and they will plant around it.

Quincy Hammond, landscape architect, showed the existing platform photo to the Board. Photos of existing plantings were submitted for the record. They have planted 61 trees this year and plan 67 next year. C. Voorhis is not concerned about this application. M. Strunk has Health Department approval, Counsel stated to submit that.

MOTION by J. Zuhusky, second by D. Guzewicz

To close for written decision on the application of RED MAPLES, LLC.

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

On the application of **PETER YONGVANICH**, 169 Elm Street, present for the applicant was Siu Liu, architect. Last time she was asked to submit a new survey which she did, and she submitted the shed elevation and floor plans with the crawl space. Counsel asked her to go back and describe the relief that she is asking for considering the new information. She showed the survey that shows all the existing structures and they all have CO's. They want to move the garage to the back so that they can open up the backyard. They have a support letter from neighbor on the north side. They will demolish current shed and build and new 8x10 which will be for storage and pool equipment.

Counsel stated that the shed grew over time, she's going back to 8x10 but maintaining non-conforming location? She stated yes, the Building Department cannot find any documents that show when the shed grew to its larger side. The relief is to relocate shed to a setback of 2.6' and construct the garage at 5' where 10' required. The shed will be 80 square feet, instead of the current 250 square feet. She does not need relief for Pyramid according to the Building Inspector.

Counsel stated that they need in writing that it is not necessary for Pyramid Relief. He stated that they are asking that they determine the code be looked at to see whether she will need relief or not. He would like to know the Pyramid request, she stated that the design has changed so she does not have a figure for the request for the Pyramid. Counsel stated that she needs to clear that up, and they want that in the record. She will request again, he stated to submit a letter with the copy of the plans to the Building Inspector. She did not do that; however he suggests that she do that. That will make it easier for them to look and see the relief necessary. D. Guzewicz stated that if the building inspector says they do not need relief, submit that. Right now, she is showing as asking for Pyramid relief in the application. There is a change from the original request. Counsel suggested to prepare the letter and have the Building Inspector sign off. She will need new plans and a letter pertaining to the pyramid relief.

MOTION by J. Zuhusky, second by D. Guzewicz

To close on the application of PAIRAJ YONGVANICH subject to written submission before the next work session on September 17, 2019.

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

On the application of **640 OX PASTURE LLC**, 640 Ox Pasture Road, present for the applicant was Lisa Boyer from Inter Science, this application is for modification to a prior wetlands permit. She presented the revised landscape plans and surveys that were presented at the work session. There were adjustments to driveway, sidewalks and a reorienting of the garage. Two retaining walls are included in the request, the pool retaining wall is to retain trees that are preexisting. There is a change of grade, it is about 1.5-3' depending on grade. There is no retaining wall that was on the previous survey, that was changed because of the garage move. There are cross section detail of retaining walls, necessary fill of 40 cubic yards for finished grading is needing. There is a letter in the file regarding fill needed and use. A new test hole was installed was at elevation at .5', it works for the drainage of the tennis court.

C. Voorhis likes the trees being saved, he mentioned that it is a notable thing a cross reference of the original permit was shown. The wall that is being removed was closer to the wetlands and closer than

the proposed. The garage location is more advantageous than the previous. The second letter was received after the work session, so he does not have a draft permit ready but could be for next session.

MOTION by J. Zuhusky, second D. Guzewicz

To close on the application of 640 OX PASTURE ROAD.

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

NEW CASES

On the application of **BLC HILLSIDE INVESTMENTS LLC**, 132 South Main Street, present for the applicant was Timothy McCully. Affidavits of mailing and posting have been submitted. Drew Craven, architect, was present as well. The property was purchased in 2018, it is one of two lots under common control. It was originally one large lot; the house was an original 1880's house. In 2007, the owner applied for and was granted a subdivision, and was allowed a lot line modification later. The flag lot property got added to on to the east. Lot line modification decision was submitted to the file. The flag lot was large a portion and given it to the property on the east. Counsel asked about the original subdivision map, it was submitted with a survey.

At the present time, the tennis court straddles the two lots and the garage which has a CO, is straddling as well, they can remain per C&R from Planning Board. The existing structures have CO's. The flag lot in this scenario is vacant and only part of the tennis court is on that lot. The variances are minimal, they want to move garage from present location to Lot 1, once they move it will not be on the flag road. They cannot meet the 30' setback that is needed. There is no living quarters proposed for the garage, they meet all the specs and the public notice is not correct. The section is 116.11.1 is the request on the notice, however, 116.17B is a minimum floor area is part of the notice. The existing garage is just an empty garage. The proposed has a half bath, M. Greenwald asked isn't that a change of use. M. McCully doesn't think so. The plan states playroom, utility room, kitchenette, half bath, and laundry. M. Greenwald stated it doesn't look like an open space, it looks like a substantial change of use, the bathroom and kitchenette and playroom. Counsel asked if there was a condition that this Board give relief for these structures to straddle lines. Did Planning Board state that the rear lot could not be built on as a condition to keep the structures on straddling lines. T. McCully submitted a package regarding 2007 and 2018 decisions. There were amendments to the original subdivision when they did the lot line modification that allowed them to make application for certain changes. Lot is still under same ownership; the Board requested the deeds to be submitted. T. McCully will provide the deeds, they are under common control. There are no owner endorsements or disclosures in the file. T. McCully will make sure it is added to the record.

They have an application pending before the Planning Board, they are asking to move the lot line westerly, they would wind up with lots having tennis court fully on the back lot, they will make the structures totally conforming, all proposed would become conforming. They can be a year and half process on the Planning Board, so he decided to come to this Board for the needed variances because of that process. The back lot with tennis court will not conform the but front lot will completely conform. Beside the garage are two pool cabanas and they want to reorient them. They plan to move the pool to conforming location and the pool houses to more compliance and that will reduce non-conformity. A table of conforming and non-conforming percentages were submitted, it show the changes and how they affect conformance. The barn was demolished in 1988 and the new one received a CO. The plans will be submitted for barn. D. Guzewicz stated that it seems the pool cabanas need relief; they will conform with lot line modification according to T. McCully. Counsel asked how they will conform, they

will meet 20' where 30' required and 9' on the garage, if they get Planning Board modification all of the non-conformance goes away. Under the code when you shrink the lot then you come into different coverage. M. Greenwald does not think that is the case. It is something the Board will need to research. The applicant is here for variances because they may not get the lot line modification. M. Greenwald asked how they got a tennis court that straddles two properties. The tennis court got CO in 1988, he suspects that the permit was never closed and when the garage was asked for building permit, that is when it became an issue. Counsel stated that the subdivision map submitted doesn't show the tennis court. He has a CO; he will investigate because an accessory on a lot without a primary is an issue. That tennis court is without a primary structure on the lot. He will get the history pertaining to the tennis court, Counsel stated that the research can help the Board to see if it needs relief. Chair stated that the only relief being asked for is the two pool houses and the garage for the 20' where 30' needed. The tennis court will remain straddling unless they get the lot line modification. Counsel stated on the lot line modification existing, the pool house shows as non-conforming location, he stated they need to find out what that setback is. The garage is being made more conforming. The reorientation of the garage gets longer on the property line. M. Greenwald feels it does not seem like a garage, there are a lot of uses.

D. Guzewicz asked for an existing condition plan for the garage. D. Craven, the architect, spoke as to the plans for the garage. The garage doors are on the building facing west, a picture showed current. The doors will face north when moved. It will be relocated, picked up and moved. They are in the process of Health Department approval. The GFA of the garage is 1,123 square feet, non-conforming. Counsel stated that the access to the garage is changing to access on the outside, the configuration of the building is changing. Currently there are two barn doors that open in the center. The owner wishes to have two separate doors for a beach car and regular car. It is a two-car garage. Utility storage is for beach car, for wet towels and beach stuff. The bathroom is to use without having to enter the house, it will not be heated. The cabanas have bathrooms per M. Greenwald. The separate surveys of Lot 1 and Lot 2 would be appreciated stated M. Greenwald. The proposed cabana has two wings, with an open-air pergola between, Counsel stated it is not clear. There is outdoor seating according to McCully. J. Zuhusky asked why do you need a bathroom in the garage? The GFA and lot coverage should be on the survey. He will provide separate survey for lot coverage on each lot. M. Greenwald noted that his impression is that they are designing a site plan for several side yard variance. He is thinking that a site plan could be made to conform since it is such a large property. D. Craven explained that the design was to maximize the view from the house down a long length of lawn. D. Guzewicz stated that the cabanas at east end of pool would conform. It is a 465' deep lot, M. Greenwald believes it could be designed to conform. McCully stated that they are reducing the non-conformity. M. Greenwald stated that the combination doesn't seem like a challenge on such a large lot. D. Guzewicz understands the garage moving, however, there could be more conformity with pool cabanas. The Board would like him to rework the pool and cabana area. D. Guzewicz stated that everyone would like to push their accessory structures to the side and the side setbacks are for that purpose, to protect the adjoining properties. They feel the garage is attractive, but it is oversized, just moving it may not automatically sustain the oversized plan of it.

MOTION by J. Zuhusky, second to D. Guzewicz

To approve the applicant's request for adjournment on the application of BLC HILLSIDE INVESTMENTS LLC.

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

On the application of **STEPHEN & LEEANN MARQUARD**, 27 Cooper Street, present for applicant was Lisa Zaloga. Affidavits of mailing and posting were submitted. This variance is for Pyramid relief for a pre-existing non-conforming lot. They have an open permit for building a 1.5 story addition, the permit was prior to the zoning changes that affected GFA limits. The GFA at that time did not have pool house included. The variance is for a bit of existing roof modification. She will submit the pool house permit and will see if they have the CO. Proposing changes just to raise the ridge and make a hip, she is giving back some and take a bit. It is a total of 7.9 cubic feet increase on west and 29 cubic feet on east. It is not living area and does not change the footprint, just changes the roof line. The ARB approval was for original, but she wanted to come here first for relief before going back to them.

J. Zuhusky asked if they need a variance, if you don't go higher than the existing house. The addition being higher means she needs to have request, although it is a small relief necessary. The setback for the garage was compliant, the minimum side yard of 15' didn't exist. She asked for the side yard to 11.1', and 11.8' off the property line. The house is skewed to the property, she chose the worst-case number for the request, but it diminishes going back. K. Guidera asked about the garage, it doesn't need relief. The addition to the garage was conforming. M. Greenwald asked if the GFA grandfathered building permits; Counsel stated, yes it did. D. Guzewicz doesn't have a problem with it, J. Zuhusky and M. Greenwald do not have concerns.

MOTION by J. Zuhusky, second by D. Guzewicz

To close for written decision on the application of STEPHEN & LEEANN MARQUARD.

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

On the application of **259 S MAIN A REV TRUST**, 259 South Main Street, present for the applicant Rebecca Brown from Araiys Design. This is two separate applications. The first is for the move of the drywells and other amendments to the original permit. The second is for a dock, however, they are considered together tonight for discussion.

The amended wetland permit was for the as-built dry wells. The original permit was issued in 2015, and it was for the wetland buffer, which gave more buffer to construct the add-ons for the building. The sanitary system was abandoned, the 25' buffer was there plus an addition. The applicant is asking for amendment for the locations of drywells for the roof runoff. They are highlighted on the survey; they were not put where originally noted from the last permit.

The second application is for a new wetland permit for the construction of a dock, it has submitted to the Town Trustees. This permit would ride on the decision of the Town Trustees, C. Voorhis stated they want the permit to be consistent. Counsel asked if they will get feedback from the Trustees before the next work session. She will try to get feedback before the next session and let C. Voorhis know by next then. D. Guzewicz asked if they need a zoning variance for the timber wall installed during construction that is to remain. C. Voorhis visited the site and he stated they need a modification of the permit. When he looked at the topography it didn't look like it changed, he's not sure of the necessity of the wall. R. Brown was not a part of the project until after that was completed. The elevation at the pool is higher, without the wall there would be run off issues to the property adjacent.

D. Guzewicz stated that they need topography of the lot, C. Voorhis has that information. He doesn't see change of grade on the plans; plans need to be updated to modify the contour lines on either side of the wall. The wall was built without a permit and it was a technical violation, he informed S. Lemansky. Counsel stated does she say the retaining wall prevents run off to the other property. She states that

there are gutters being installed now and the second-floor deck currently does not go into drywells, however, it will when the gutters are in place. D. Guzewicz stated that they have a problem with purpose of the wall. It is timber and they need plans for the wall, how it is constructed. C. Voorhis asked if it could be moved. The contours do not change, they need to understand the purpose and more information. Counsel recommended C. Voorhis go out to see the topography, the retaining wall may not be needed. R. Brown will set up a meeting with C. Voorhis and S. Lemansky, they will meet before the next work session.

On the dock, C. Voorhis wanted to confirm does not involve a float; R. Brown noted that there is no float. One plan shows soundings, which is typical. The survey was done after the submittal, it says DP-1 because the Town requires large prints. He asked what the elongated lines are on shorelines, they are as-built core logs. They were part of original plan, but modified during building, they will conform to as-built. C. Voorhis wants core logs to be labeled, then just have one plan that shows the dock with sounding. He prefers consistent plans.

MOTION by J. Zuhusky, second by D. Guzewicz

To approve the applicants request to adjourn on the application of 259 S MAIN STREET.

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

MINUTE APPROVAL

MOTION by J. Zuhusky, second D. Guzewicz

To approve the minutes for the July 25, 2019 public hearing.

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

MOTION by J. Zuhusky, second D. Guzewicz

To close the meeting.

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

Respectfully Submitted by:

JoLee Sanchez

File Date: _____

Village Clerk