

**ZONING BOARD OF APPEALS
VILLAGE OF SOUTHAMPTON
OCTOBER 25, 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, October 25, 2018 at 6:00 p.m.

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

Counsel for the Board Wayne Bruyn was present. Environmental Planning Consultant Chic Voorhis was absent.

Chair Devinney opened the meeting.

FOR DISCUSSION

For November the meeting dates have been set at November 27th for the work session and November 29th for the public hearing.

For December the meeting dates have been set at December 11th for the work session and December 20th for public hearing.

PENDING CASES

On the application of **THE MEADOW CLUB**, 555 First Neck Lane, this application is adjourned to the November public hearing.

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of THE MEADOW CLUB to the November 29, 2018 public hearing.

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

On the application of **SPUR**, 630 Hampton Road, a letter was received requesting adjournment.

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of SPUR.

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

On the application of **78 WHITE STREET LLC**, 78 White Street, the applicant was not present. They were moved to the end of the agenda.

On the application of **MCDONALD'S USA LLC**, 307 North Sea Road, the applicant was not present. They were moved to the end of the agenda.

On the application of **EMANUELE SANTOMAURO**, 229 Potato Field Lane, present for the applicant was John Distefano, submitted to the file was an updated survey with the as-built house and two renderings of a proposed shortened porch.

Counsel noted that the front porch is still the full length of the house on the survey. They were shown two ways, shorter and longer but less deep. J. Distefano began stating that the shed was present when they bought the house, the code is 15' from the property line. They must either move it or get a variance for it. Counsel asked did his client get an up to date CO with purchase, J. Distefano answered no. D. Guzewicz stated that they would ask him to move it or get rid of it to get a variance for the porch or portico. J. Distefano stated that he would speak with his client and let them know that. The shed is in its original location so he's not sure if it could be moved successfully.

Counsel asked to describe new proposed porch. J. Distefano stated that Michael Berringer drew a second covered porch. The new porch is not the full length of the house. They can possibly go 4' instead of 6' deep. The plan is for a shed roof, 6' deep porch that is not the full length of the house. He brought two drawings, he would like to get the Board's feeling on which they prefer. He feels it looks more attractive with a 4' deep the full length. D. Guzewicz prefers the shorter 6' one, he feels the shorter is more compliant. Chair Devinney feels the shorter is better as well. He feels that landscape between the two is nice, he feels that it is better than shrubs in front. J. Distefano stated that his client does not intend on plantings; the Board feels that the plantings could happen in the future. It feels it has the potential to get on top of the road.

J. Distefano stated that he could possibly show the shed moved and reduce the front to 4' 11' and the entire length of 60'. M. Greenwald stated that the preference is not to go the full width. The setback is 40', if feels less close to the street. He will submit a survey with the shed moved to a new location. The Board asked to have the submission for the work session. Also, the Board would like to have shown the stoop on the other door that is approximately 8'x4' that does not need a variance. J. Distefano stated that he will get those submitted well before the work session in November.

Motion by K. Guidera, seconded by D. Guzewicz

To close on the application subject to written submissions on the application of EMANUELE SANTOMAURO.

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

NEW CASES

On the application of **KURT & MONICA STRUNK**, 7 North Sea Road, Kurt Strunk was present. Affidavits of mailing and posting were submitted. He prepared a presentation, it outlines why they believe they should receive their requested variance based on the Village guidelines regarding request for relief.

They recognize the historicity of their home. It is one of the oldest houses in the Village. It is not an easy house and when purchased, it hadn't been maintained since 1957. Counsel asked for the survey, so they can see where the property is. K. Strunk presented the survey, the property is located North of the North End Cemetery. It is set back, and it is at an odd angle to the street. They feel constrained by the shape of the lot. It does not seem that their request will affect the neighborhood in a negative way. They would like an extension of their sunroom of 96 square feet, it is single story. Because it is already non-conforming at 4.8' at the property line, they feel the request is small and unobtrusive. D. Guzewicz asked if it was advertised for the pool and pool equipment? Counsel stated they can only grant the

variances that were advertised and see if they need to be renoticed. The pool does not need a variance, but the pool equipment does and that was not advertised.

They expand the non-conformity by less than 8 percent. He feels that there are no options for them but to expand and he also feels it will not adversely affect the neighborhood. All their requests for relief are to the back of the road, it is not visible from Windmill Lane either and it is well screened by shrubs and fencing. Built in 1665, extension on North side in 1913, then on the cemetery side was 1800's. The garage was built in the 20th century sometime. K. Guidera asked about the bluestone driveways and the right of way. The property line runs through the bluestone driveway and the right of way. Chair asked about the location of pool equipment. It looks like 17' but the code is 20'. The parking is strictly in the front, D. Guzewicz asked if the other driveway will be abandoned. K. Strunk stated that it will still be left for the neighbor use and his occasional use. K. Guidera asked what the garage is used for, he stated it is storage. The people to the West would be the only ones affected by the pool equipment noise. They are not requesting a variance to the Western property line, it is the Southern line that needs relief. They will update the septic. Counsel asked if the Health Department will allow the septic in back instead of in the front. K. Strunk stated that it is not proposed, it is in. Counsel stated that they need Health Department approval and they will need to provide that.

Sheila White and Bill Shefferine own the store to the West, their residence is behind the store and accessed through the right of way. She asked for clarification of 96 square feet or 48 square feet as the request for relief because she was under the impression it was 48 feet. K. Strunk was hoping for 4' but will accept 2' if they can't receive the 4'. There are no dimensions shown on the survey. Chair stated that they should ask for 4', even though it was noticed for 48 square feet.

S. White and B. Shefferine submitted a letter and a letter from their neighbors and they are opposed to the application. They asked that letters that were submitted be read into the record. They own a business and home, they share the back fence in the back yard. There is some work underway, incremental approvals without formal notice. She wanted to know why there are two separate systems for sanitation, the Board stated it is one system but with two leeching pools and it is standard. What is the plan for the garage with the loss of the driveway to the pool was another concern. There is a little left of the driveway, they wonder what it will be used for. The geo paver area needs to have two parking spaces. The code is 10' from the property line for driveway. They can park three cars in the front stated K. Guidera. She states that they do not feel the request is obtrusive, there appears to be a high chimney stack on the back for a wood burning fireplace, she requested could they make it a gas burning to lower the chimney. The Board noted that chimney is not in their prevue. Chair Devinney stated that chimneys have to go above 10' of any sloping roof. S. White continued that the fence must be 4' high for code but asked if it will meet their 5'6" fence that is existing. There is a patchwork of different types and sizes of fencing, would it be possible to have pool fence meet their fence. Also, what are the materials for the fence. Last year they asked to put in a fence, higher than what they had already.

D. Guzewicz stated that they must fence the pool, however, they don't have to make it 5'6". The two issues before the board are the 48 or 96 square feet and the pool equipment. K. Guidera stated the pool meets all setbacks. The fence is for safety and privacy.

S. White continued that the entry and egress is already congested, the loss of extra feet of driveway makes it more. Can they move the fence off the right of way and the dumpster off the right of way? R. Devinney stated that they can ask him as condition of the variance to move things that are incorrect.

D. Guzewicz asked if that is their only parking, they stated yes. The encroaching fence was to stem the flow of traffic to a business in the past but that is not longer an issue. Chair feels the fence and dumpster should be set off the right of way. S. White noted that the corner of the building has been damaged by trucks in the past because it is so tight on the right of way. They request that those encroachments be moved back to create easier passage. They both have ownership of right of way split down the middle. It is delineated by the property line down the middle. There is a house at the back where they live, so they need access. She would like the pool fence to be the same height as the existing fence. They both have use of the right of way. They have a trampoline that they fear will be pushed closer to them once the pool is installed, when in use the trampoline use causes sight lines into their home. They were hoping for a line of privet for privacy. There is a letter from the Calvo's in the file as well, they share similar concerns. It was noted that there is garbage enclosure, not a dumpster in the right of way. Their biggest concern is the right of way. The Board noted that most of the concerns need to be worked out as neighbors.

K. Strunk stated that the Board does not have jurisdiction for the private right of way. The right of way is large, one of the larger in the Village. What is not seen on the survey are encroachments with window wells from the business that encroach on the driveway. He feels it is not relevant to their request. He understands that they have to provide the pool equipment survey and pool patio to within 10'. D. Guzewicz stated all of that must be on a survey. Counsel added that it needs to be formally on the survey with existing conditions and proposed conditions; they need the dimensions. They need to demonstrate that the parking will be sufficient. Access to the garage is via the right of way, they need to have on the record that they are no longer having a garage, so that they have the appropriate off-street parking. Counsel stated he needs Health Department approval, they will need to check into that. M. Greenwald asked how his pool fence will be installed, the garbage bin looks to be part of their enclosure. Counsel stated the fence needs to be shown and goes all the way around the pool. The lot coverage is not correct and should be based on office zoning district. D. Guzewicz stated the board fence needs to meet pool code. Lastly, all the requests need to be properly noticed.

M. White asked if they agree that the fence and garbage enclosure should be moved back out of the driveway. Counsel stated that they need to discuss those things outside of the jurisdiction of the Board.

Counsel stated that they need to provide a C of O and right of way deed as part of their request.

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of KURT & MONICA STRUNK.

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

On the application of **ZERO SQUABBLE LLC**, 0 Squabble Lane, present for the applicant was John Bennett. Affidavits of mailing and posting were submitted. This application is for wetlands approval, there is only a small amount of zoning relief requested. They want to construct a porch relief at 73' where 80' is required and to a norther wetland setback of 97' where 150' is required. The relief is minimal because of the location of the property. The primary relief is for a 7662 square foot house, which is not large for the neighborhood, they want to add 1,500 square feet in small additions. Legally, they are adding a room that is not a bedroom and another bedroom. Only one of the potential bedrooms will be bedroom use. The distance down Squabble and distance from surrounding houses it would be hard to argue anyone would be affected at all. The house would not have much of a difference in appearance. They want to do one and two-story additions with porches in various areas that add up to about 1500 square feet. They are adding an IA system for sanitation. They will replace with native

species plantings the invasives in the Wetland. There is a short memo from Chic Voorhis in the file, he stated the needs for his consideration of the plans, those will be addressed. C. Voorhis wanted amendments to the long form assessment form. D. Guzewicz stated that if they need to remove invasives, it will be necessary.

Steve Nieroda, ARAIYS Design, the wetland is along Wickapogue pond from the pond to the 125' setback. They will remove invasives and replace with native plant species. Within the 150' they are removing impervious material and replacing with lawn. Counsel stated that it is not labeled as the IA system, simply a Fuji system, he would like it labeled appropriately. Counsel asked if the house had previous decisions, J. Bennett stated that there is a decision of this Board in the file. He will submit a C of O. There is an access easement for the Squabble road owners and occupants on this property. He is assuming that the scenic easement is from the variance application. However, it is not recorded. D. Guzewicz asked about the easement driveway that runs right up to the building, yes that parking was pointed out on the plans. They will provide the requested for C. Voorhis and the concerns of Counsel. Cutting back on invasives and remove impervious material in the 150' setback, the plan is to remove that and replace with pervious lawn. The existing pool runs east to west alongside the tennis court.

Linda Riley represents the Galfant's, the neighbor most affected by the proposed changes. The history of the construction of this house is that there were years of approvals and they got a waiver to build. There needed to be covenanted the vegetation in the coastal area. She conducted a CNR search, no such covenant was ever recorded. The variance for the tennis court was conditioned recording a covenant to keep natural condition and vegetation to be not disturbed. There was extensive work and planning that went into the building of this house. At the end of the day, what was approved for house, tennis court and pool was strictly conditioned, the Board of Trustees waiver was conditioned.

The applicant bought in 2016, he received a permit for dune revegetation. She submitted photos of the dunes and the pages are numbered. The photo on top was from 2014, right up along the ocean side of the house is natural vegetation. The next photo is an aerial from 2018, there has been substantial disturbance within the Coastal Erosion Hazard area. The client did get a permit from the Building Department for revegetation in the coastal erosion area. The permit has been renewed, however, there has been very little revegetation. The third is from a week ago, there has been no planting other than grass. The other concern, in the two weeks leading up to LD there was disturbance by non-stop jack hammering. The jack-hammering was related to taking out the terrace around the pool. That was done without permitting. The tennis court pavilion, you can see on the photo, was also demolished without permits. The applicant tore up the end of Squabble Lane that was maintained by the Squabble Lane Association. It looked that possibly they were putting in gates. They complained about that and was told they needed permits to put in gates. It was torn up to make it appear more like a driveway than what it is, which is Squabble Lane. There was disturbance to her client's property with all that was going on, a photo was presented to show the damage. The right of way is Squabble Lane, it is part of a decade's old pedestrian easement. L. Riley states he has two driveways here, they preexist but what he has done is remove Squabble Lane, in a portion, without permits.

The reason she is bringing it up is it's relevant to SEQRA. She did not receive Chic's memo. She would like the copy of that memo, because the disturbance is much greater and there seems that there will be excavation and in multiple phases even though they deny that. The dock is not part of this application. The dock is DEC regulated areas. Her point is that there are things that are going on in spurts and some are permitted, and others are not. There is no survey of existing conditions in the file, that is important because her clients state there were bulldozers moving around in the Coastal Erosion Hazard Zone. Her

client does not object to everything but specifically objects to the proposed addition of the porch, the existing house is stepped in and down. The highest portion is in the main and gets lower and lower, the proposed deck and porch in front of existing entry and extend the whole East wing. The second story deck will look out on client's property. It is an enormously long porch, it requires a setback because of the boundary line on Squabble. The variance request is 6', however, she feels it is unnecessary. It needs wetlands setbacks for a portion as well. She isn't sure why it should be considered for relief. The house will be more massive, and her clients are opposed to it. The notice also mentions a patio being built in the 125' setback. Her client objects to the proposed revegetation on Wickapogue Pond, there is growth there now that provides the benefit now. The vegetation is dense in there. The bottom line is this needs a deeper more thorough environmental review. She would like to ask permission for a private environmental consultant that they hire to go on the property and take inventory of what is there. Counsel gave Riley copies of landscape plans.

J. Bennett showed that they are not disturbing the wetlands, they are just replacing native species. This is the first that he is hearing of someone unhappy to have revegetation. He feels that her concerns are not valid, because the work done was permitted. They removed non-native species, they preserved Bayberry which is native, but removed non-natives. The proposal is to replant, it was not finished but the permit was renewed. The permit has been out for a year and renewed once. The scenic easement came out of one of the Village's permitting processes. They showed it on the map as if it was recorded, however, they are honoring it on the survey. There is no SEQRA issue in this case, it is a Type 2 action, activity to a single-family residence. The Village continues to have people fill out a long form environmental assessment form, even though it is not necessary. His client repaved Squabble Lane but did not prevent residences from using it. Removal of tennis pavilion and retaining wall was not permitted at the time, it was stopped when discovered. He has no intention of allowing a third-party consultant on the property, it's not necessary with ARAIYS Design and C. Voorhis working on this application. D. Guzewicz asked for the variance for the tennis court to be added to the file.

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of 0 SQUABBLE LLC.

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

On the application of **ODED NACHMANI**, 1471 Meadow Lane, present for the applicant was Brian Deasero. Affidavits of mailing and posting were submitted. He just received a memo from C. Voorhis of NPV. Existing single-family home, demolish existing and retreat 20' and build FEMA approved home and new IA system. The lot coverage will be reduced and a planting plan to augment native species existing there. He is requesting adjournment since he has not had time to review the NPV letter and would like time to do so and respond to any concerns or conditions.

Chair asked for construction staging site plan. Counsel stated that the Board reviewed a similar application to theirs, MADISON AVENUE PTRNS. The applicant realized that section 116 -12 G and H applied, the sky plane was an issue, they may need a sky plane variance as well. If it is required, it needs to be renoticed. Counsel asked about Health Department, they are pending Health Department approval. Retaining walls may need to be around the septic. He knows that the proposed system is not needing walls. M. Greenwald stated that would be unusual. He stated that with the galley system it is possible to not have walls. M. Greenwald asked for elevations about Pyramid but not Sky Plane, asked for existing conditions. They are on the same map, but it is hard to read, current existing would be helpful. M. Greenwald asked about the chart for the Meadow Lane overlay district, that may be necessary.

Motion by K Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of ODED NACHMANI.

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

On the application of **JOSEPH AMODEA**, 97 Meetinghouse Lane, present for the applicant was John Bennett. Affidavits of mailing and posting were submitted. This is an application to take a preexisting non-conforming multi-family home and add to it. It is east of Pine street and in the R12.5 district. There are a lot of multi-family units in this area. They are not adding to the apartment but would like to add to the house up front. The proposed multi-family house would result in 3,074 square feet; 3,340 is permitted under current GFA allowance. The other thing of note is that they are not picking up new bedrooms. Siamak Sami plans were included in the file to show the existing and proposed first and second floor plans.

Counsel stated they have copy of plans and survey received today. J. Bennett stated he will look at what they submitted, they will look at the plans that were submitted previously. On the first floor there are two bedrooms and two bedrooms proposed, not picking up bedrooms. First floor is one apartment. The second floor is two apartments, with two bedrooms. It is two one-bedroom apartments There is a reorganizing of the apartments but not picking up extra bedrooms.

Joe Amoda, the applicant spoke, it is a living room and bedroom all in one on the second floor, no additional bedrooms.

J. Bennett noted that there was a letter from Danielle Franz in the file, she is concerned about the parking on the property. There are two spaces in the garage and two diagonal. They must stack the cars. D. Guzewicz has a problem with the stacking of the vehicles because it doesn't work. He sees the six spaces but doesn't see how they work. Chair can't see it working either. K. Guidera asked if they need 8, but J. Bennett feels they are grandfathered. Counsel stated the question here is can the garage be expanded or modified. Relocation of the garage restricts maneuvering. Counsel stated to the Board that the question is should you allow expansion even though the GFA is okay. The pool will have to be 20' from any septic. J. Bennett stated the Board's points are all valid and he will address them. Counsel asked about prior CO's and variances, there have been no prior expansions.

J. Amoda purchased in 1981, he believes it is original footprint.

Chair stated that there is a letter from Danielle Franz in the file that expresses concern over parking.

Jim McFarland, a neighbor, is concern is that Meetinghouse Lane is the main access to the Hospital. It is narrow, and the North side has no parking and even this step has not helped. Tenants, visitors and workmen are parked there. It becomes a one lane street. It's not possible to ask retroactively for parking but the request for more space allows for more problems with parking. The zoning ordinance is for 8 parking spaces. He feels it will be more than 8 cars. He should try to give as many spots as possible. The Health Department needs to look at the spot to see if it's large enough to handle the expansion. He supports his expansion but needs to be mindful of the parking.

J. Bennett will take note of the parking issue.

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of JOSEPH AMODEA.

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

MEMO: CONSIDERATION OF JUDICIAL SETTLEMENTS

On the application of **472 FIRST NECK LANE LLC**, 472 First Neck Lane, accept proposal to remove Article 78. J. Bennett stated they negotiated an amended plan and they hope the Board likes it, but if they don't like it they get to revert to the original decision. J. Bennett represented this application.

Motion by K. Guidera, seconded by D. Guzewicz

To accept the removal of Article 78 and accept withdrawal of lawsuit on the application of 472 FIRST NECK LANE LLC.

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

On the application of **CHRISTOPHER AND JEANNE LYNCH**, 58 Rosko Drive, J. Bennett states that his client went to the ARB and were told to build a conforming house. They designed a new house with a new architect that was more appropriate, and the ARB approved it. House with pool and all conforming.

Motion by K. Guidera, seconded by D. Guzewicz

To accept the withdrawal of lawsuit on the application of CHRISTOPHER AND JEANNE LYNCH.

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

PENDING CASES

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of 78 WHITE STREET LLC.

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

Motion by K. Guidera, seconded by D. Guzewicz

To adjourn for all purposes on the application of MCDONALD'S USA LLC.

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

Chair Devinney closed the meeting.

Respectfully Submitted by:

JoLee Sanchez

File Date: _____

Village Clerk