

**ZONING BOARD OF APPEALS
VILLAGE OF SOUTHAMPTON
NOVEMBER 21, 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, November 21, 2019 at 6:00 p.m.

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

Counsel for the Board David Kirst was present. Environmental Planning Consultant Chic Voorhis was absent.

Chair Devinney opened the meeting.

MINUTE APPROVAL

Motion by K. Guidera, second D. Guzewicz

To approve the minutes of the October 24, 2019 public hearing as corrected.

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

PENDING DECISIONS

On the application of **BLC HILLSIDE INVESTMENTS LLC**, 132 South Main Street, there is a written decision in the file.

MOTION by K. Guidera, second D. Guzewicz

To approve the decision as written on the application of BLC HILLSIDE INVESTMENTS LLC.

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

On the application of **HENRY AND BERNADETTE WATKINS III**, 44 Halsey Neck Lane, there is a written decision in the file.

MOTION by K. Guidera, second D. Guzewicz

To approve the decision as written on the application of HENRY AND BERNADETTE WATKINS III.

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

ADJOURNMENTS

On the application of **LIFTON GREEN LLC**, 270 Ox Pasture Road, pending advisory report from the ARB.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicant's request for adjournment for all purposes on the application of LIFTON GREEN LLC.

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

On the application of **MEREDITH JOYCE TRUST**, 765 Hill Street, pending re-notice for December hearing.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicant's request for adjournment for all purposes on the application of MEREDITH JOYCE TRUST.

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

On the application of **COMMUNITY BAPTIST CHURCH**, 16 Rev Raymond Lee Court, there is a letter in the file requesting adjournment to December 2019 public hearing.

MOTION by K. Guidera, second D. Guzewicz

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

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

On the application of **GLENN NUSSDORF**, 210 Meadow Lane, there is a letter in the file requesting adjournment.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicant's request for adjournment for all purposes on the application of GLENN NUSSDORF.

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

On the application of **ELINOR COHEN**, 359 Meadow Lane, there is a letter in the file requesting adjournment.

MOTION by K. Guidera, second D. Guzewicz

To approve the applicant's request for adjournment for all purposes on the application of ELINOR COHEN.

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

PENDING CASES

On the application of **PATRICIA MCEVOY SHERMAN**, 6 Squabble Lane, present for the applicant Matt Pachman, at last meeting a plan was submitted. A revised plan was submitted per a suggestion by C. Voorhis. Spirea was replaced by Black Choke Berry; it was acceptable per C. Voorhis. Jim Walker from Inter Science passed out the latest plans that were approved by C. Voorhis. They are in contact with the DEC and they need approval from this Board as well. Some plantings can happen now, but there will be some Spring planting as well. They are requesting a close for decision. The root barrier is proposed and expected and will be part of permit condition.

MOTION by K. Guidera, second D. Guzewicz

To close for written decision on the application of PATRICIA MCEVOY SHERMAN.

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

NEW CASES

On the application of **SOUTHAMPTON RE PARTNERS**, 95 Down East Lane, affidavits of mailing and posting were submitted. Present for the applicant was Emily Rabbe, Aaron Wheel, the architect, was present as well. The dock is to be relocated in an existing goose pathway. The Army Corp of Engineers recommended that pathway and the DEC needs to approve the location. The structure will have a 4x6 platform at the water and will be constructed of untreated hardwoods. They will have a dinghy sling as well. The source of soundings were added to the plan. The path was moved per the request of C. Voorhis, they have cross referenced the original permit issued in 2017. The planting plan that was approved will remain in effect with exception of recreational pier and 4' pathway. They have DEC approval and Town approval and are awaiting approval from the Board. Chair stated they have a memo from C. Voorhis, they were responsive to comments, he has no further comments at this time. The pathway was kept out of the buffer which is responsive to the Board.

MOTION by K. Guidera, second D. Guzewicz

To close for written decision on the application of SOUTHAMPTON RE PARTNERS.

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

PENDING CASES

This application was heard at the end of the meeting at the request of Gil Flanagan, in behalf of his client who arrived late.

On the application of **ANDREW & DANA STONE**, 527 Meadow Lane, present for the applicant was Gil Flanagan, the environmental studies were submitted before the last work session. The intention of the application is to rebuild what was existing. There is no expert testimony stating there would be negative effects to environment the for the wall replacement. He would like to have Aram Terchunian discuss the process of the rebuild.

A. Terchunian conducted a site inspection with C. Voorhis last week. The wall, which is a sturdy wall, has existed over 100 years. It is creating a wetland impact because it has completely fallen on the wetland. Their proposal to remediate is to remove the fallen area and build in the existing location. There is an elevation difference, stormwater runs off and drains into the wetland. There is bare soil exposed where the runoff is occurring, which is subject to the elements and discharging into the wetlands. He understands the Board has concern regarding impact to the wetland during the remediation, he would like to describe how it will be accomplished and the protections to the wetlands. They will use a hydraulic excavator. They want to preserve the soil of the marsh; the vegetation will be disrupted but they will use timber mats over the wetland to prevent ruts. They will use construction limiting fencing as well as silt fencing. When they replace the wall, they will remove the timber mats as they exit, they will replant any dead vegetation, their experience is that in one growing season it is recovered, and you can't tell they were there. Chair asked are they concerned without this wall water will run into the wetland. A. Terchunian feels that the storm and wastewater conditions do affect the bare soil. The water will run down into the wall and percolate down. The soil is permeable so they feel it will recharge into the ground. The interlocking panels will be recessed into the ground, the piling will be 12'to 13' into the ground. M. Greenwald asked what the benefit is to the applicant's property. It is a historic property and the wall maintains the historic character noted A. Terchunian. The benefit is the aesthetic and to

limit environmental impacts. Chair asked is wall visible from the road, he answered yes at times you can see it. Chair stated that he isn't sure about the historical value.

M. Greenwald says he isn't sure they are environmentally better off with the wall; however, they feel that it does benefit the environment for drainage. M. Greenwald stated that this is the only wall on this stretch, do they feel it is better to have walls. A. Terchunian stated that yes, the wall would be beneficial in these situations. They asked if there is another option for barrier, perhaps natural. M. Greenwald stated would a vegetative buffer accomplish the same thing. A. Terchunian stated here there is not, because the upland fades right into the wetland. D. Guzewicz asked if fill has migrated into their property from the neighbor's property. A photo of current conditions was shown, yes there has been soil migration. Chair feels that walls may not be a good idea to mitigate the flow into the wetland. D. Guzewicz asked if there are any other properties have the same situation along Meadow Lane. He wasn't sure of others with same conditions. Chair stated wouldn't the ground sink and level out without the wall. It would create more upland and less wetland. If there was more room, they would use other options but there is no distance to accomplish this. M. Greenwald noted that if the house to the west elevated, that may have caused the issue because of new FEMA requirements. J. McCormack stated that maybe the wall created the opportunity for the upland to increase. There is a wall laying in the wetland and it is affecting it, they want to get rid of that. They feel in this unique circumstance there is wetland right against upland, this is the best alternative. Here there is no room to create a buffer as a filter. Counsel stated that it doesn't appear to fit definition of repair, it is a reconstruction of a new wall. The Board can grant a permit to protect the wetland if it meets criteria for wetland permit.

Andrew Stone, owner, the property to the west was at grade until they raised that house. That fill is what caused the wall to fail. They reached out to the neighbor and she acknowledged responsibility. Her insurance is covering the rebuilding. Without the wall they will have flooding on their property. He isn't blaming the neighbor, but the action approved by this Board caused the problem. M. Greenwald asked to rebuild, what if they just built it the way it was, would it collapse again. He feels it may because if it is built the same the grade will put pressure on it again. They hired a landscape architect and they don't have the width to do a vegetative buffer and it would affect the wetland. They spoke with the neighbor during her construction and they were told she had permission to do it. They didn't understand why fill needed to come on their wall. D. Guzewicz stated that it probably had to do with septic, etc. The setback is 25' of neighbor to the wall per G. Flanagan. He feels that if there was a giant storm, flooding could be an issue. Chair stated they hear his concerns.

Hilda Hurford, neighbor, she asked if there is going to be a wall. They will not deliberate it now; the new information has to be considered with C. Voorhis. She stated she is not 4' of fill, she said that the wall is higher on the street side. Her fill never covered the wall according to her. If the wall is going to be built, will the last portion be left. She feels that will collapse to because of the stucco, it is chipping away. The block is hollow, not solid. She wants to know how he is going to stabilize the wall. She isn't sure if the wall collapses if she is going to be held responsible. She feels that if they leave it, it will fail. Chair stated that as to the remaining wall, the owner can repair it. Chair stated that the insurance will not pay ahead of a collapse. Counsel stated the intact wall is to remain, that is not before this Board.

The environmental purpose of the other portion of the wall is also for an elevation difference, but it is not fill against it, not new fill according to A. Terchunian. She needs a signed release form so that she is not on the hook, Counsel stated that is not for this Board to consider.

Aram Terchunian was in communication with the DEC, they don't believe the department has any major issue with their plan.

MOTION by K. Guidera, second D. Guzewicz

To adjourn for all purposes on the application of ANDREW & DANA STONE.

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

MOTION by Chair Devinney, second K. Guidera

To close the meeting.

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

Respectfully Submitted by:

JoLee Sanchez

File Date: _____

Village Clerk