ZONING BOARD
VILLAGE OF SOUTHAMPTON
OCTOBER 27, 2016

Due notice having been given, the public hearing of the Zoning Board of Appeals of the Village of Southampton was held in the Board Room of the Municipal Building, 23 Main Street, Southampton, New York on Thursday, October 27, 2016 at 7:30p.m.

Chairman Kevin Guidera was present along with Board members Robert Devinney, Daniel Guzewicz and James Zuhusky.

Village Attorney, Richard DePetris and Environmental Consultant Chic Voorhis were present.

Chair Guidera opened the October 27, 2016 meeting of the Zoning Board of Appeals.

PENDING DECISIONS

On the applications of **HAMPTONS REAL PROPERTY LLC,** 17 Squabble Lane and **50 HAMPTON ROAD LLC**, 50 Hampton Road. Letters were written to withdraw the applications.

On the application of **THOMAS AND JULIE FRIST III**, 446 First Neck Lane, the written decision was accepted as prepared.

Motion by R. Devinney, seconded by D. Guzewicz
To accept the written decision on the application of THOMAS AND JULIE FRIST III.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **GERALD SPRAYREGEN**, 47 Pulaski Street, the written decision was accepted as prepared.

Motion by J. Zuhusky, seconded by D. Guzewicz
To accept the written decision on the application of GERALD SPRAYREGEN.
On Vote: Chair Guidera, D. Guzewicz, J. Zuhusky; Nay: R. Devinney

On the application of **ECO-FRIENDLY HAMPTONS**, 87 Halsey Avenue, the written decision was accepted as prepared.

Motion by R. Devinney, seconded by D. Guzewicz
To accept the written decision on the application of ECO-FRIENDLY HAMPTONS.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **MATTHEW HOFFMAN**, 48 Bellows Lane, the written decision was accepted as prepared.

Motion by R. Devinney, seconded by D. Guzewicz
To accept the written decision on the application of MATTHEW HOFFMAN.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **HERBERT REAL ESTATE INC.**, 51 Jobs Lane, the written decision was accepted as prepared.

Motion by R. Devinney, seconded by D. Guzewicz
To accept the written decision on the application of HERBERT REAL ESTATE INC.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

PENDING CASES

On the application of **550 & 554 HILL STREET**, this application is before the Planning Board.

On the application of **LATCH,** 101 Hill Street, this application is before the Planning Board.

On the application of **LATCH**, 109 Hill Street, this application is before the Planning Board.

On the application of **22 WINDMILL LANE LLC**, 22 Windmill Lane, the applicant was not present.

Motion by R. Devinney, seconded by D. Guzewicz
To adjourn for all purposes on the application of 22 Windmill Lane.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz, and J. Zuhusky

On the application of **76 WHITE STREET LLC**, 76 White Street, present for the applicant was counsel, David Gilmartin. A submittal was provided pertaining to the property as well as past variances. R. DePetris let him know that there the minimum lot area for dwelling unit in the OD District has always been 20,000 square feet and this property is 14,000 square feet. They will need a variance for a dwelling in the OD District, office space would not need a variance. D. Gilmartin noted that he will return for the variance as to lot size for dwelling, and R. DePetris stated that would-be grounds for denial of the request considering the Zoning in the OD. D. Gilmartin stated that there was at one time a variance granted for a dwelling on this property as it was part of a three-lot subdivision. This property was given the relief in the past, two lots in the subdivision were granted the relief. R. DePetris stated that he would need to provide subdivision maps.

John Bennett owns the office to the north and he is in support of this application, the Office Zoning District was broadly applied to these properties. This was spoken of extensively before the Planning Commission recently. Building single family residences is within the character of the neighborhood and is less problematic than office uses. It will enhance the quality of the neighborhood and is a superior use of the property. He is fully supportive of this application.

Motion by R. Devinney, seconded by D. Guzewicz
To adjourn for all purposes on the application of 76 White Street.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **LEONEL LEYVA**, 65 Heady Creek Lane, present for the applicant was Wayne Bruyn. Some calculations were requested at the last meeting, as a reminder this application had a granted front yard setback with the condition that the non-conforming sunroom on the back be removed. Revised site plans were submitted before the work session. There was a submission that summarized the existing variances granted and the calculations that were requested. The request is to add an open porch on the back, they have the right to build out the property under the existing variance. The

neighbors that were opposed were informed of the existing variances and that they don't expire, their attorney seemed to understand better the nature of the request. R. DePetris stated that T1 of the submittal was not legible, he cannot read the data accurately. They would like the print enlarged. The sheet was provided to R. DePetris, it seemed to be clearer. He feels that it needs to have more copies for the record but it will suffice for the decision.

Jerry Beitel is the neighbor to the East, he had the opportunity to look at the plans but would like to know if the house sits on the existing foundation. Emilio Susa, the architect, confirmed that it will sit on the existing foundation except for the additions to the front and back, and the garage location stays the same.

Wayne Bruyn requested that the case be closed subject to submittal of the enlarged T1 data.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of LEONEL LEYVA.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **WHITEFIELD CONDO**, 155 Hill Street, present for the applicant was Tim Rumph, the landscape architect. Landscape plans were submitted. His firm has been the landscape architect and contractor for the Whitefield Condo for some time. They would like to provide deer fencing for a continual deer problem, the fencing would be nearly invisible. In the area, there are many six -foot fences so it will not adversely affect the appearance in an already fenced neighborhood. In the back of the submittal, there is a sample of the fencing to show it will be very open and nearly invisible deer fencing.

Robert Marinca, counsel for the applicant, noted that this property was originally a farmhouse and orchard. In the 1980's the house was purchased and made into a condo association. The deer are a huge problem in the Village and especially for this property since it has extensive gardens. Photos were submitted of the original shrubs in the garden. Existing condition photos were also submitted. They are proposing a 6-foot deer fence and cattle grates at both entrances. There was originally a fence on the original property, at least 8 to 10 feet in height, a photo was submitted showing that fence. The hedge is sparse in areas and they walk through easily, basically by putting a fence behind the hedge it will stop entry, they feel the deer won't jump over the hedge because of its height. He feels it is not a substantial request, since the fence will sit between hedges and is a wide wire deer fence and won't inhibit visibility. He showed a sample of the fence they would like to use. The variance requested is only for the South side, on the front only with two small returns to the existing fence currently on the sides and back of the property.

D. Guzewicz said it could possibly herd the deer into the road or into neighboring properties. He feels that a lot of people put in illegal fences. He asked if there were any other solutions aside from fencing. Tim Rumph said they have tried repellents, and ultrasound devices but those do not work. They feel they are victims of exactly what D. Guzewicz was stating. There are 6 and 8 foot fences on neighboring properties.

R. Devinney is not concerned about the deer population, Chair Guidera stated that the deer were here before us and he is concerned for the population. Tim Rumph was asked if deer resistant plants were an option. He noted, that he tells his clients that deer resistant plants are no guarantee for landscape

protection. Sometimes they develop an appetite for things they did not previously have an appetite for. Tim Rumph stated that the Homeowner's Association would like this request considered.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of WHITEFIELD CONDO.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

NEW CASES

On the application of **AJR MEADOW LANE LLC**, 1690 Meadow Lane, present for the applicant Lisa Poyer from InterScience and John Bennett. The affidavits of mailing and posting were submitted. This is an application for landscaping within the 125' required northerly wetland. The ZBA issued a variance for plantings in the Wetlands previously, they would like to add vegetation in the Wetland buffer to what is existing. Over time there has been die off and the planting are very thin, they would like to replace what has been damaged and add to the existing. The property has Purple Loosestrife, which is not native and destructive and needs to be removed.

C. Voorhis noted that he had a brief opportunity to review the landscape plan but he stated he isn't sure what is there and how it will be managed. Lisa noted that they wanted to fill in some of the dead plantings and get rid of the problematic species, C. Voorhis noted that he would like to meet at the property with the landscape architect. L. Poyer noted that the applicant would like to plant as soon as possible. C. Voorhis will meet prior to the next work session.

They also have a gate on the variance application; appearance and size would be helpful noted C. Voorhis. L. Poyer noted that they would provide that information.

Motion by R. Devinney, seconded by D. Guzewicz
To adjourn for all purposes on the application of AJR MEADOW LANE LLC.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **GEORGE SOROS**, 550 Old Town Road, John Bennett present for the applicant submitted the affidavits of mailing and posting. He started with a picture of the wall that surrounds the property to show that the granting of this variance would not visually affect neighboring properties or even bystanders from the street. He believes the property is a remnant of the Rogers Estate. The fence is hollow bricks surfaced with stucco. The addition is small, only 259 square feet that facilitates a master bedroom on the first floor. The house has a preexisting non-conforming setback, but the setback requested for this addition is less. The setback is 54 feet where 80 is required on the western front yard. There is a two-front yard condition to this property. Anything added to the house would require setback relief. There is also a request for Wetland relief, very minor, there is no adverse effect to the Wetland even though it is within the 150 feet wetland setback.

Larry Reed, the project manager, was present and noted that they chose the location to save the mature trees on the property, they chose the westerly side for the addition to lessen the impact. R. DePetris noted that there are two accessory buildings and asked what they were. John Bennett stated that they are not dwelling buildings, just accessory structures.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of GEORGE SOROS.

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

On the application of **LARRY HORTON**, 63 Huntting Street, John Bennett present for the applicant submitted affidavits of mailing and posting. This is a .36-acre property that contains two single family residences on the same property, they would like to convert the existing northern single family home of 819 square foot to a guest house and construct a new single family home. Presumably by covenant they will only serve family or guests of the owners. The non-conforming use would be extinguished, that of two single family homes on the same lot. They will need relief for the size of accessory structure because of changing the use. The southerly house or main house is going to removed and a new house constructed will meet current setbacks and size requirements. R. DePetris noted that the request is consistent with prior decisions to encourage people to correct these non-conforming situations, they will stipulate that the cottage could not be enlarged.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of LARRY HORTON.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **LAWRENCE FRIEDLAND**, 50 Wyandanch Lane, present for the applicant was Gil Flanagan, Ed Hollander, and Melissa Dedovich. Affidavits of mailing and posting were submitted. The main house was destroyed by fire in 2015. The applicants are looking for landscaping within the Wetlands and redeveloping the entire site. There are structures that will be within the 150' wetland setback. The survey shows two ponds that are manmade land ponds and are non-permeable, they are not regulatable under the Village Wetlands law. The landscape plan was created by Ed Hollander, there will be a buffer around the pond and they hope to reduce the size of the pond by forming the two separate into one. There will be an increase in the Fescue lawn. There is a solarium and footpath that are existing, the total of structures would be 606 square feet, that is offset by the reduction in the ponds. Pushing the structures to the West would adversely affect mature trees that they do not wish to impact, which affected this request. The house itself and 98% of the structures are conforming. The wetlands that are being encroached on are part of drainage created by the Village.

C. Voorhis agreed, they are delineated wetlands that are marginal at best. Existing manmade pond reduction and with more buffering and Fescue lawns will be an improvement to the previous. He is not concerned regarding the request since he met with the owner and discussed the situation at length and feels the changes are positive.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of LAWRENCE FRIEDLAND.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **VILLAGE OF SOUTHAMPTON**, Gin Lane, present for the applicant is Gary J. Goleski. His department must mow and maintain the shoulder of this property frequently. Knotweed and Phragmite has taken over and it is difficult to manage. The process they use is to first cut back the phragmite and then come in and mow, it is difficult and time consuming. They would like to open the view to the pond and remove all the invasive species. They propose Wisconsin Willow trees be planted every 45 feet; they will shield the pond and would like to shore plant with native species.

C. Voorhis' firm was contracted to help to produce a proper way to handle these invasive species, they believe the Willows will help to inhibit the Phragmite and it's a plan to achieve the goals of getting the

non-native species under control. They have concrete debris they would like to remove and level off. D. Guzewicz asked if the Parks Department will care for it and will there be watering needed. G. Goleski noted that the Parks Department would maintain and water but the Highway Department would plant the trees. They would probably use pond water to establish the Willow initially.

The Southampton Association sent a letter in opposition because they feel the Phragmite is necessary for the health of the pond. They request that the ZBA deny the application.

Dan Gollizio, representing the Peconic Bay Association, was present. He had been by the property two days ago and there was not notice posted. The code requires to be referred to Suffolk County Planning Commission, currently they do not have an application on file. He questioned whether the DEC had been contacted regarding this plan because by code it needs to be involved. He added that even though Phragmite are not native, they are very effective to filter the water. The Lake Agawam protection plan has discouraged lawn for homeowners on the lake and they were urged to vegetate with native species. They feel the DEC being involved would be very helpful in this case.

G. Goleski stated that he had put up the sign regarding the application himself two weeks ago. D. Guzewicz noted that in the past, in these situations, native plantings that are planted will overwhelm and weed out the Phragmite. C. Voorhis stated this is a practical plan to help the Village in maintenance and protect the Wetland. To native plant to overtake the Phragmite would take a lot of time, as much as three years. The problem then becomes that they will be cutting down the old and would kill any new plantings, so this plan is trying to get ahead of the Phragmite. He noted the DEC has no jurisdiction but they did speak with DEC staff and they stated that cutting and certain non-harmful chemicals could effectively remove Phragmite. Secondly, he feels this is more protective to the environment than would native plantings, they don't expect deterioration of the underlying shore from removing the Phragmite. The planting of native Fescue will help to maintain the shoreline. After it is under control, they can come in with a landscape plan to protect the lake. C. Voorhis feels it will protect the lake. G. Goleski feels that the Phragmite needs to be eliminated for maintenance.

Scott Lindsey, resident of 442 First Neck Lane, is concerned about the plan. The first concern is that the plan is limited in detail as to what and when it will be done. The plan assumes Phragmite is a bad thing, just because it is non-native does not make it bad. He feels that Southampton is full of non-native species. He is concerned about the water quality of the lake as well; he feels on a State level it needs to be determined if it would be effective to remove it. He is concerned about privacy as well; it will be a clear view to the houses if it is removed. They feel they were not properly notified about this application, he stated the process may have been flawed. He sent a letter today stating his concerns. He feels there should be further study regarding the situation. He requests this application be rejected.

Motion by R. Devinney, seconded by D. Guzewicz
To adjourn for all purposes on the application of VILLAGE OF SOUTHAMPTON.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **240 LITTLE PLAINS REALTY LLC**, 20 Downs Path, Wayne Bruyn present for the applicant, submitted the affidavits of mailing and posting. This parcel is R80 zoning and is located on Flying Point Road and Down's path and is a corner lot. The property was improved with a single-family home with deck and pool. In 2014, the prior owner obtained a demolition permit, it showed the existing dwelling, pool and deck with setbacks. In 2014, his client purchased the property and was issued a permit for a single-family home with porches, patio and swimming pool. The existing pool, has an

eastern yard setback of 26.1 feet where 30 feet is needed for R80. The contractor, Frank Saluto, constructed the house from the plans. The porch shown on the plans was shown to have a 25' setback, the contractor checked with the surveyor that it was correctly plotted. Essentially, the pool was placed and a slate patio was installed, after that they realized there may be an issue with the setback. The survey shows that it was 26.1 feet instead of the allowable 30 feet. An error was made by the contractors at some point, the existing pool was less than 30' at 28', both were not in compliance. This is a corner lot and the most impacted property is to the East. There is a wire fence in the hedge and high plantings to screen the property adequately. His client is willing to add any necessary additional screening.

Fred Saluto, the contractor, was present. He started the process with surveying. He knew when the numbers came back that he was at 25.3 feet, he put a parallel line off the house so that the pool contractor could stake out the pool. He put in an additional 5-foot line so he doesn't know how the error occurred. R. Devinney noted that the pool heater and equipment are needing to fall within the 30 feet as well, currently they do not. D. Guzewicz questioned whether he met with pool contractor to discuss the setbacks, he stated that yes he did and then soon after that they commenced construction. It was 30' and no room for error. The other pool was CO'd but was not conforming either but better than the existing. D. Guzewicz noted that contractors are careful but pool contractors are less careful.

Aldamar Lopez from Lopez pools followed all the markings, he doesn't remember shifting the pool. He contracts the excavation and D. Guzewicz noted that the excavator may have made a mistake. They build a wood frame first and then excavate so he isn't sure what happened. Chair Guidera noted that people allow no room for error, they build right to the line. D. Guzewicz feels that the line came down at some point and was replaced incorrectly. W. Bruyn stated that it was the patio contractor that noticed the problem.

R. DePetris stated that they are either in agreement to move the pool heater and equipment or not. W. Bruyn stated that they will agree to move the equipment.

E. Bregman representing Mr. Baron the neighbor to the East. His client was concerned about noise and privacy. The applicant was very cooperative and agreed to put up the stockade fence and plantings for screening, they support the application with that requirement.

Motion by R. Devinney, seconded by D. Guzewicz
To close on the application of 240 LITTLE PLAINS REALTY LLC.
On Vote: Chair Guidera, R. Devinney, D. Guzewicz and J. Zuhusky

On the application of **TOWN OF SOUTHAMPTON,** 51 Pond Land, there was a letter received requesting time to readvertise on this application.

Chair Guidera closed the meeting.

Respectfully Submitted by:

JoLee Sanchez

File Date: _____

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Village Clerk