



EH Town Zoning Board of Appeals

300 Pantigo Place
East Hampton, NY 11937

Denise Savarese
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**EH Town Zoning Board of Appeals meeting of October 17,
2017
East Hampton, New York**

I. CALL TO ORDER

12:00 AM Meeting called to order on October 17, 2017 at Town Hall Meeting Room, 159 Pantigo Road, East Hampton, NY.

Attendee Name	Present	Absent	Late	Arrived
Chairman John P. Whelan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Theresa Berger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Roy Dalene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Cate Rogers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member David Lys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

II. CANCELLED PUBLIC HEARING:

A. *The Russo Family Trust*

This application has been withdrawn

The Russo Family Trust

SIZE/LOCATION: 5,000 sq. ft., 8 Jackson Rd., Map No. 1312; Montauk Beach, Lot 55 & 56, Montauk

(300-070-04-19)

DESCRIPTION: To construct a 1,088 sq. ft. residence, with 180 sq. ft. first floor deck, 144 sq. ft. second floor deck and to install a sanitary system on a property located within Town's jurisdiction of wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to ? 255-4-20, 3 variances from ? 255-4-30 (wetland setbacks) and a variance from ? 255-11-72D (pyramid) of the Town Code

and any other relief necessary. (1) A 28.4? variance is required to allow a residence to be constructed 71.6? from wetlands where 100? is required; (2) A 28.8? variance is

required to allow a deck to be constructed 71.2? from wetlands where 100? is required;
(3) A 63.1? variance is required to install a sanitary system 86.9? from wetlands where 150? is required.

ZONING DISTRICT: B Residence X Flood Zone

SEQRA CLASS: Type II

III. SCHEDULED PUBLIC HEARINGS:

A. Christine & Jesse Greene

TIME: 6:30:00 PM APPLICANT: Christine S. and Jesse J. Greene

SIZE/LOCATION: 40,234 sq. ft. (total), 40 Homeward Lane, Beacon Close, lot 10, map # 6211, Montauk (300-013-02-26.10)

DESCRIPTION: To allow an accessory garage to contain plumbing.

RELIEF SOUGHT: One variance from ?255-11-67(A) 6 of the Town Code is required to allow the

accessory garage to contain plumbing, and any other relief necessary.

ZONING DISTRICT: A Residence Zone X Flood Zone

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Tyler Borsack

Date completed: July 17, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 40 Homeward Lane Subdivision

School District: Montauk Special Permit

Zoning District: A Residence Zone Change

Overlay District: N/A Variance XX

Tax Map Number: 300-013-02-26.10 Natural Resources

Applicant: Christine S. and Jesse J. Greene, Jr. Special Permit
11 Overlook Drive Other:
Bedford Corners, NY 10549

Telephone: 914-525-5984

FEMA ZONE: X Flood Zone

Soil Type: Montauk loamy sand, sandy variant, 15 to 35% slopes (MnE)

Map of Property: Beacon Close, lot 10, map # 6211

Size of Parcel: 40,234 sq. ft. (total)

Project Description:

To allow an accessory garage to contain plumbing.

Relief Requested:

One variance from ?255-11-67(A)6 of the Town Code is required to allow the accessory garage to contain plumbing, and any other relief necessary.

Property Conditions and History:

The property is currently improved with an approximately 4,882 sq. ft. two story residence with approximately 3500 sq. ft. of first and second story decking, 660 sq. ft. second story deck, and 594 sq. ft. detached garage. The property has not appeared before the Zoning Board previously. All of the existing structures are shown on the Saskas Surveying Company, PC survey dated revised October 7, 2016.

Planning Department Analysis and Recommendations for the Boards Consideration:

The subject property is located on Homeward Lane off of East Lake Drive, in Montauk. The applicants are currently requesting to keep plumbing within their detached garage.

According to the building history and the applicant's submission, a Building Permit was issued in 2015 for alterations to the existing residence with additions and the construction of the detached garage, Building Permit #61033. The garage had no indications of plumbing at that time and when an inspection of the property for a possible C.O. was completed the plumbing was noted as requiring a variance.

The application states "To provide water for the plants, for clean up capability for all activities and safety capability for all activities, the Greene's asked the builder if they could add a utility sink and enough hot water to wash hands". The builder believed that because the sink was not disposing of human waste and not connected to the sanitary system that it would not be a problem and installed a utility sink with a hose and spray nozzle and a small on-demand hot water heater.

The sink was installed on the inside of the western wall of the detached garage and it attached to, and drains into, a drywell. The drywell is also connected to the leaders and gutters system of the residence and garage.

The applicants contend in the application that the plumbing is the equivalent to a garden hose and includes no availability to dispose of human waste. Pictures of the utility sink and hot water heater are included in the application along with a survey of the property and building plans of the garage. The application also makes note of a family member who is educated as an artist and whose sole earned income is through art and as such this building could be considered as an Artist's Studio which would allow for plumbing for a sink. This information may help the Board come to a decision, however, the official Artist's Studio designation process would have to be done through the Town Board, §255-1-88 of the Town Code. The applicants also offered to remove the plumbing in the event of a sale of, or otherwise ceases to own, the property.

The applicants noted an appeal of a November 2, 2016 building department determination, although the application was originally submitted after the 60 day appeal period, per §255-8-35, which would have ended on January 1st. As such, the appeal of that determination is not included.

The Zoning Board needs to decide if the application meets the variance standards in §255-8-50. The applicant needs to show that the proposed project will not create a detriment to nearby properties, that the benefits cannot be achieved by some other method, that the

project is not substantial, and will not have an adverse impact on the physical or environmental conditions.

Recommended Project Conditions:

1. N/A - Existing structure

B. Rhett Beckmann

TIME: 6:50:00 PM APPLICANT: Rhett Beckmann

SIZE/LOCATION: 8,919 sq. ft., 94 South Euclid Avenue, Fort Pond Business Section (174), Montauk

(300-049-01-14)

DESCRIPTION: To construct a two-story 2,066 sq. ft. (footprint) building with a 1,811 sq. ft. first floor to contain a veterinary office use and a 583 sq. ft. second floor to contain an office use

along with associated lighting landscaping, sanitary system, etc.

RELIEF SOUGHT: A variance from section 255-11-45 of the Town Code which requires eleven (11) on-site parking spaces whereas the applicants propose only seven (7) spaces on-site.

ZONING DISTRICT: CB- Central Business Zone X Flood Zone

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: N/A

Planner: Eric Schantz

Date completed: July 11, 2017 Site Plan X

SEQRA class: Type II Sub Waiver

Physical Location: 94 South Euclid Avenue Subdivision

School District: Montauk Special PermitX

Zoning District: CB: Central Business Zone Change

Overlay District: N/A Variance X

Tax Map Number: 300-049-01-14 Natural Resources

Applicant: Rhett Beckmann & Molly Miosek Special Permit

C/O Tara Powers Other:

Lighthouse Land Planning

PO Box 5030

Montauk NY 11954

Telephone: (631) 668-7332

FEMA ZONE: X

Soil Type: (BhC) Bridgehampton silt loam, till substratum, 6 - 12% slopes

Map of Property: Fort Pond Business Section (174)

Size of Parcel: 8,919 sq. ft.

Project Description:

To construct a two-story 2,066 sq. ft. (footprint) building with a 1,811 sq. ft. first floor to contain a veterinary office use and a 583 sq. ft. second floor to contain an office use along with associated lighting landscaping, sanitary system, etc.

Relief Requested:

A variance from section 255-11-45 of the Town Code which requires eleven (11) on-site parking spaces whereas the applicants propose only seven (7) spaces on-site.

Property Conditions and History:

The parcel is currently vacant and is situated in downtown Montauk on the corner of South Essex Street and South Euclid Avenue and is zoned CB: Central Business. It has never been previously developed. It is 100% cleared of naturally occurring vegetation. It is not within Natural Resources Special Permit jurisdiction of any wetlands and contains no protected natural features

The Planning Board reviewed a preliminary site plan application for this property and has had an initial review of the formal site plan application. The Zoning Board of Appeals should read the Board's post-meeting comments dated June 8, 2017. The Planning Board found the proposed parking layout before the Zoning Board of Appeals acceptable, primarily as it mirrors the existing parking configuration on South Euclid Avenue while still maximizing on-site parking by use of the alleyway in a configuration also similar to other lots on this block.

Planning Department Analysis and Recommendations for the Boards Consideration:

The parking requirement for the combination of office and veterinary office uses of the square-footage proposed is eleven (11) spaces. The applicants have illustrated a total of eleven (11) parking spaces including seven (7) spaces on the subject parcel utilizing the alleyway to the rear (south) of the lot and four (4) (with one (1) being handicapped accessible) within the right-of-way of South Euclid Avenue, off of the subject parcel. As these spaces are technically not on the subject parcel, relief is required from the Zoning Board of Appeals for these spaces.

It appears that under the proposed layout there is room on-site for all required parking spaces, with one of them being designed for handicapped-accessibility. This would include spaces to the rear of the property along the alleyway, a general design which the Planning Board has sought to create on numerous blocks of downtown Montauk, including the one the subject parcel is situated within. In the past, where the applicants have demonstrated that parking can be situated on-site, but where proper planning dictates that they should be situated off-site in order to mirror and not conflict with the existing design of adjacent

parking, the Board has allowed (and supported) the granting of a variance by the Zoning Board of Appeals (e.g. Kazura, Franzone, Foley (Air & Speed), Home Team 668, LLC)

Alternatively, and pursuant to 255-11-46 B, where a project has been designed in a manner which could not situate required parking on-site due to the proposed layout or size of the proposed building(s) the Planning Board has required the applicants to pay fees-in-lieu of parking for the required spaces. The current fee-schedule is \$15,000 per space. Based upon this policy, it appears to the Planning Department that the applicants have appropriately submitted a variance request and fees-in-lieu are not applicable to this project. The Planning Board has agreed with this assessment and has furthermore recommended that the Zoning Board of Appeals grant the requested relief.

The only viable alternative for the applicants other than requesting relief is that the parking spaces be relocated on-site, either along South Essex Street or South Euclid Avenue. South Essex Street currently has no perpendicular (head-in) or parallel parking spaces built along it anywhere in downtown Montauk and parking is actually prohibited by section 240-61 (Vehicles and Traffic) of the Town Code. South Essex Street currently has perpendicular parking spaces on both the north and the south side in this area of Montauk. On both sides, this parking is located in the right-of-way as opposed to on the individual lots. The Planning Department feels it would be visually discordant and inconsistent with existing traffic patterns to require the spaces for the applicants to be located on the subject parcel.

The Town Engineer has reviewed the application, including potential issues with head-in parking on South Euclid Avenue as this is a corner lot. The nearest spaces would be 40' from the intersection and the Town Engineer has found this design acceptable. Additionally, subsequent to the Planning Board's initial review they contact the Superintendent of Highways, who supported the spaces along South Euclid Avenue.

The Zoning Board should focus on the variance standards of section 255-8-50 of the Town Code to determine if the application should be approved. The Planning Department and the Planning Board find the parking layout to be the best design for the property.

Recommended Project Conditions:

1. N/A

C. Bennett Nevins

TIME: 7:30:00 PM APPLICANT: Bennett Nevins

SIZE/LOCATION: 29,740 sq. ft. (upland area), 289 East Lake Dr., Montauk (300-013-01-26)

DESCRIPTION: To construct a 72 sq. ft. generator pad and pool patio and to allow an 8 sq. ft.

concrete pad supporting a transfer switch box, 24 sq. ft. of decking, a reconfigured pool with a spa, and garage to remain on a parcel of land within 150 ft. of wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to ?255-4-20 and a 3 variances from ?255-4-30 (wetland setbacks) and any relief necessary. A variance of 56 ft.is required

to construct the generator/generator pad 44 ft. from the freshwater wetlands where a minimum 100 ft. setback is required. Variances of 74 ft. and 66 ft. variance are required to respectively allow a deck and a transfer switch box/pad to remain 26 ft. and 34 sq. ft. from the wetland where a 100 minimum setback is required.

ZONING DISTRICT: A Residence, Zone X Flood Zone

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Lisa D?Andrea

Date completed: July 18, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 289 East Lake Dr. Subdivision

School District: Montauk Special Permit

Zoning District: A Residence Zone Change

Overlay District: Harbor Protection Overlay District (HPOD) Variance XX

Tax Map Number: 300-013-01-26 Natural Resources

Applicant: Bennett Nevins Special Permit XX

c/o Nancy Marshall

PO Box 5030

Montauk, N.Y. 11954

Telephone: 631-668-1000

FEMA ZONE: X Flood Zone, VE 11 Flood Zone

Soil Type: Bridgehampton silt loam, till substratum 2-6% slopes

Map of Property:

Size of Parcel: 29,740 sq. ft. (upland area)

Project Description: To construct a 72 sq. ft. generator pad and pool patio and to allow an 8 sq. ft. concrete pad supporting a transfer switch box, 24 sq. ft. of decking, a reconfigured pool with a spa, and garage to remain on a parcel of land within 150 ft. of wetlands.

Relief Requested: A Natural Resources Special Permit pursuant to ?255-4-20 and a 3 variances from ?255-4-30 (wetland setbacks) and any relief necessary. A variance of 56 ft. is required to construct the generator/generator pad 44 ft. from the freshwater wetlands where a minimum 100 ft. setback is required. Variances of 74 ft. and 66 ft. variance are required to respectively allow a deck and a transfer switch box/pad to remain 26 ft. and 34 sq. ft. from the wetland where a 100 minimum setback is required.

Property and History:

In a determination filed March 13, 2013 the Board approved a NRSP and nine variances for the demolition of all existing upland structures and to construct a 4,679 sq. ft. two-story residence, 780 sq. ft. of covered porches, 4,303 sq. ft. of decking, two walkways, 538 sq. ft.

of balconies, a 674 sq. ft. swimming pool, sanitary system, and the reconstruction of the 38 ft. x 4 ft. dock. A building permit for the construction was issued June 9, 2014. The project is still under construction.

A modification request received by the Board on October 29, 2013 that itemized five changes as summarized in the cover letter from Richard A. Hammer, Esq. : (1) enlarging the attached garage by 113 sq. ft.; (2) raising the height of the roof peak; (3) increasing the first floor elevation by 18"; (4) relocating the chimney, and (5) changes to the mud room/entry. A review of the building plans and the survey submitted with that modification indicated an area of decking or patio had been increased on the south side of the proposed garage in a manner that did not comply with the Code's 15' side yard principal structure setback and reduced the freshwater wetland setback to south to approximately 20 ft. The Board declined to act on the modification and the applicant was given an opportunity to eliminate the further encroachment into yard and natural resource setbacks.

Revised surveys and building plans were submitted to the Board on January 30, 2014 prepared by George Walbridge Surveyors, PC revised January 27, 2014. The reductions in yard and wetland setbacks to the south were eliminated. The proposed changes would increase the square footage of the residence to 4,792 sq. ft. Lot (building) coverage would be increased from an approved 3,314 to 3,427 sq. ft. and total coverage would decrease from an approved 11,754 sq. ft. to 11,391 sq. feet.

The modification of the March 12, 2103 determination was filed April 2, 2014. The approved survey for this modification is the George Walbridge Surveyors survey dated January 27, 2014.

An application for a NRSP and wetland variance for a proposed generator/generator pad was received by the Board on September 27, 2016.

A NRSP/Variance Modification Application dated March 21, 2017 was received by the Board on March 28, 2017. Review of the modification application determined that two new variances were required for structures and therefore ineligible for a modification.

This Technical Analysis Memo is a review of the variances required as well as other modifications that have been made or proposed to be made.

Planning Department Analysis and Recommendations for the Board's Consideration:

In September 2016 an application for a NRSP and a wetland setback variance was submitted for a concrete generator pad, which was not included in the March 2013 determination or the subsequent April 2014 modification. In March 2017 another modification request was submitted. In reviewing the modification request it was determined two additional variances were required in addition to the variance needed for the proposed generator pad.

Below is a table comparing the original project, the first modification and the current proposal.

Survey Building Coverage Total Coverage

Walbridge survey dated revised 8/13/12 (survey approved with 2013 determination) 3,314 sq. ft. 11,754 sq. ft.

Walbridge survey dated revised 1/27/14 (survey approved with 2014 modification) 3,427 sq. ft. 11,391 sq. ft.

Walbridge survey dated revised 5/5/17 (survey submitted for modification) 4,091 sq. ft. 12,092 sq. ft.

Difference between original approval incr. of 777 sq. ft. Incr. of 338 sq. ft.

The applicant is now before the Board requesting approval for a change in the pool and pool patio. The pool originally approved was irregular in shape, had a patio around it, and a pool deck. The pool which is partially constructed is a 20x40 ft. 800 sq. ft. pool with a 64 sq. ft. spa. The pool patio with a grilling area proposed in the modification has not yet been constructed. According to the applicant, the prior owner had a hot tub and this fact was inadvertently omitted in the original application and also in the April 2, 2014 modification. However, a building permit was issued on June 9, 2014 for a 652 sq. ft. pool with a "hot tub?". It should be noted that the partially constructed spa has dimensions of 8x8 ft. The Town Code definition for "pool" is a structure which is greater than 6 ft. x 6ft. and a depth greater than 18 inches. Technically this structure is a pool. At any rate, this spa is adding another 64 sq. ft. either as a separate structure or an extension of the pool.

The pool patio on the south side will maintain the same distance to the wetlands, however, on the north side it is proposed to get closer. (The approved patio on the north side was 42 ft. from the wetlands and in this new proposal the patio will be situated 17 ft. closer to the wetlands). The comprised sq. footage of the new pool, patio, with spa is purportedly 4 sq. ft. smaller than what was originally approved.

Also to be considered by the Board is a partially constructed deck, a constructed concrete pad for a transfer switch box and a proposed concrete generator pad. All three structures require substantial variances. The applicant should explain to the Board how and why these structures are located where they are or will be and why the variances are the minimum necessary. These variances appear to be self-created hardships.

In the most recent letter to the Board dated June 13, 2017, two variances requests were itemized and it was noted that the corners on the garage have been squared off resulting in a 2.5-3 sq. ft. difference. It should also be noted that the driveway is somewhat different than the approved driveway configuration. This project, since the onset of construction, has

had numerous requests for changes. Some of the changes from the original approval have already been constructed or partially constructed. Some changes are proposed. It is difficult to parse out all of the changes taking place on this site. It will be up to the Board to determine whether the changes to the project are in keeping with the original determination.

The applicant must demonstrate compliance with the Variance standards of ? 255-8-50 D. of the Town Code in order to be eligible for the issuance of the requested variances. The Board must determine whether the variances sought are the minimum necessary. The Board must also determine if the project complies with the Natural Resources Special Permit standards of ? 255-4-20 in order to issue a NRSP permit.

Recommended Project Conditions:

- a. The project limiting fencing with staked straw bales in the location depicted on the Planning Department sketch dated September 17, 2012 that were erected prior to the commencement of construction shall be maintained for the duration of construction activities. The fencing shall be repaired or replaced as necessary to maintain proper function.
- b. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing to affirm that it has been properly maintained.
- c. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.

D. *Stuart Rosenstein*

TIME: 7:50:00 PM APPLICANT: Stuart Rosenstein

SIZE/LOCATION: 84,065 sq. ft., 38 Hawk's Nest Lane, Map No. 6557; Map of Hawks Nest, Sec II, Lot 39, Amagansett (300-151-04-06)

DESCRIPTION: To allow approximately 3,495 sq. ft. of clearing and a 280 sq. ft. storage shed to remain on the property.

RELIEF SOUGHT: One variance from ?255-3-65 (Water Recharge Overlay District (WROD) regulations), a variance from ?255-11-10 (Dimensional regulations), and a variance from ?255-11-

72D (Pyramid Law) of the Town Code and any relief necessary. A 9,172 sq. ft. clearing

variance is requested to allow 29,680 sq. ft. of clearing to remain on the property where the maximum clearing permitted is 20,500 sq. ft. A 6.2 ft variance is required to allow the shed to remain 13.8 ft. from the side yard where 20 ft. is the minimum setback. A 3 ft 2.5 in. Pyramid variance is required.

ZONING DISTRICT: A2 Residence, Zone X Flood Zone

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Lisa D?Andrea

Date completed: Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 38 Hawk?s Nest Lane Subdivision

School District: Amagansett Special Permit

Zoning District: A2 Residential Zone Change

Overlay District: Water Recharge Overlay District (WROD) Variance XX

Tax Map Number: 300-151-04-06 Natural Resources

Applicant: Stuart Rosenstein Special Permit

c/o Land Planning Services

PO Box 1313

East Hampton, N.Y. 11937

Telephone: (631) 537-8500

FEMA ZONE: Flood Zone X

Soil Type: Montauk loamy sand, sandy variant 15-35% slopes (MnE)

Map of Property: Map No. 6557; Map of Hawks Nest, Sec II, Lot 39

Size of Parcel: 84,065 sq. ft.

Project Description: To allow approximately 3,495 sq. ft. of clearing and a 280 sq. ft. storage shed to remain on the property.

Relief Requested: One variance from ?255-3-65 (Water Recharge Overlay District regulations), a variance from ?255-11-10 (Dimensional regulations), and a variance from ?255-11-72D (Pyramid Law) of the Town Code and any relief necessary. A 3,495 sq. ft. clearing variance is requested to allow 24,003 sq. ft. of clearing to remain on the property where the maximum clearing permitted is 20,500 sq. ft. A 6.2 ft variance is required to allow the shed to remain 13.8 ft. from the side yard where 20 ft. is the minimum setback. A 6.5 ft. Pyramid variance is required.

Property and History:

The parcel is in WROD. Until 2014 the premises were vacant and vegetated with high quality native woodland.

A building permit was issued on December 17, 2013 to construct a 5,146 sq. ft. two story residence with a 790 sq. ft. attached garage, 278 sq. ft. covered porch, 699 sq. ft. of patio, 185 sq. ft. second story deck and 395 sq. ft. of covered deck. In August 2014 a building permit was obtained to install a 1,351 sq. ft. patio. Then in September of 2014 a building permit was issued for an 800 sq. ft. pool, a 64 ft. spa, and 1085 sq. ft. of pool patio. The most recent Certificate of Occupancy (CO) was issued on September 19, 2014.

The owner and applicant acquired the property September 3, 2014 prior to the issuance of the CO.

In March of 2016 a Stop Work Order was issued by Ordinance for the construction of a pool house and outdoor fireplace without a building permit(s).

All existing and proposed structures are depicted on a Steven Barylski survey dated revised March 24, 2016.

Planning Department Analysis and Recommendations for the Board's Consideration:

Clearing regulations for properties within WROD went into effect in December of 1984. The clearing on this property cannot be considered pre-existing non-conforming.

The survey submitted for the 12/17/13 building permit depicted the proposed location of a residence, pool and pool house and included clearing calculations. The proposed clearing calculation was within the permitted clearing allowed for WROD. Two checkmarks in red ink are beside the clearing calculations indicating that they were reviewed prior to the issuance of the building permit.

It appears there were numerous changes made to the project after the building permit was issued. The constructed house footprint, driveway, and pool were changed. (Surveys illustrating these changes will be sent under another cover).

Two subsequent building permits were issued prior to the issuance of a Certificate of Occupancy (CO). One was for a 1,351 sq. ft. patio, another for a pool, spa, and 1,085 sq. ft. pool patio. The surveys submitted along with the building permit applications have the WROD clearing calculations but lack existing and proposed calculations. It appears the Building Department failed to pick up on the omissions. Ultimately, a CO was issued in September 2014 without proper review of the clearing.

A stop work order was issued March 8, 2016 by Ordinance when it was discovered that a pool house and outdoor fireplace were under construction without the benefit of a building permit. An updated survey was required as part of the building permit application for the pool house/fireplace. It was, then, that the non-conformance of the pool house with regards to lot line setbacks and the clearing issue apparently was noticed.

The existing clearing calculations on the Steven Barylski survey dated revised March 24, 2016 are not accurate. A site inspection revealed that anything not lawn or a structure had been delineated as uncleared. This is not how the Town Code defines clearing. Town Code 255-1-20 defines Clearing B. : "As applied to an area of land: all land which has been altered from its natural state by the removal of trees, brush, or other vegetation and/or groundcover including land which is lawn or from which groundcover has been removed. As used herein the term "natural state" shall mean and refer to the natural condition of land without substantial alteration by human activity."

The Planning Department has flagged the clearing on the property with white flagging tape. The applicant has had the revised clearing delineated on the Steven Barylski survey dated revised March 6, 2017. The clearing has been verified as accurate by the Planning Department.

The flags should remain in place until the hearing date so that the Board members making their inspections can see the flagging. The survey should also include the allowable and existing lot and total lot coverages.

The purpose of WROD is to provide for the application of a system of needed additional regulations for properties located in areas where disproportionately large quantities of rainwater are recharged into and stored in the underground aquifer, in order to help ensure the continued sufficiency and purity of the Town's irreplaceable groundwater supply and sole source of drinking water. What is applied to lawns and landscaped area in the forms of fertilizers, pesticides, and herbicides get absorbed into the ground and ultimately make their way into the groundwater. Intact native woodland with its many layers aid in filtering the water before it ends up in the groundwater. Protecting the Town's sole source aquifer is very important and is precisely why there are stricter clearing restrictions within the WROD. The trees, shrubs, other understory plants, the leaf litter and all the inhabitants contained within the leaf litter all play vital roles in the recharging of the water. The clearing regulations in WROD were adopted to give the land owner ample room for a residence, accessory structures such as pools, patio, and landscaping while preserving the native woodland habitat so essential for water recharge.

This property was vacant with quality native woodland in 2013. The owner acquired the property in 2014 and is responsible for his property and knowing the laws pertaining to it. The Variance Standards state that the Board shall not grant any area variance unless the variance outweighs any detriment it will cause to the general health, safety and welfare of the neighborhood or Town as a whole. WROD and its regulations were adopted precisely for the general welfare of the Town as a whole. The Planning Department's opinion is that the benefit gained by the applicant will not outweigh the detriment to the Town. It also does not appear to be the minimum variance necessary. The requested variance is substantial, may adversely affect the environment, and in essence, was self-created. Furthermore, the property appears to contain several areas that can be revegetated with native forest vegetation.

The pool house was constructed without the benefit of a building permit and thus the variance requests from side yard setback and pyramid law appear to be a self-created hardship. There appear to be more conforming locations for the pool house. It is the Planning Department's opinion that the side yard setback and pyramid variances that are being requested are not the minimum variances necessary.

When considering the clearing variance in this application, Board should keep in mind that it may encounter similar applications in the future where a CO was issued in error regarding clearing restrictions. We recommend that the Board consider all of the circumstances that led to overclearing as well as the potential to avoid the need for a variance altogether.

The Planning Department recommends, and will continue to recommend, in applications where a certificate of occupancy was issued in error that properties be revegetated to the maximum extent possible and variances only be approved when the only option available would be to demolish existing structures in order to revegetate. The Planning Department is aware of only two clearing variances that have been granted in the Water Recharge Overlay District (WROD) and a high bar should be set for allowing clearing to exceed the maximum

allowed in this important area of Town which is vital to the protection of the Town's sole source aquifer.

Recommended Project Conditions:

- a) The lot coverage, and total lot coverage should be included on an updated survey.
- b) The square footage to be revegetated should be determined by the Board.
- c) The parcel should be revegetated with the species, sizes and spacing indicated on a revegetation plan to be approved by the Board or its delegate prior to the issuance of a building permit. Any invasive non- native species such as ornamental grasses in areas to be revegetated should be removed. The revegetation should be completed within six months of the issuance of a building permit.
- d) The revegetation should be inspected by the Board or its delegate prior to the issuance of a Certificate of Occupancy.

IV. WORK SESSION:

V. EXTENSION OF TIME:

A. *Laura Michaels*

SCTM# 300-28-4-27

71 South Edgemere, Montauk

Extension of Time Request to maintain valid Building Permit - to commence construction of project and obtain a Certificate of Occupancy

B. 57 Waters Edge LLC

SCTM# 300-83-7-15.1

57 Waters Edge

Springs

Extension of Time Request to maintain valid Building Permit and obtain a Certificate of Occupancy

C. David & Lisa Frenkel

SCTM# 300-152-2-15.21

25 Whalers Lane

Amagansett

Extension of Time request to maintain valid Building Permit and obtain a Certificate of Occupancy

D. Michael Cleary

SCTM# 300-28-1-6

18 Fairview Avenue

Montauk

Extension of Time Request - construction has been completed. Applicant seeking issuance of a Certificate of Occupancy.

E. Otto J. DelPrado

.SCTM# 300-23-3-4

172 Waterhole Road

Springs

Extension of Time Request - for the purposes of obtaining a Certificate of Occupancy - project has been completed.

VI. POSSIBLE ADMINISTRATIVE APPLICATIONS:

A. *Vigano*

SCTM# 300-23-4-11

98 Runnymede Drive

Springs

Project description: To construct 1,525 sq. ft. two story addition to the existing residence on a parcel of land with bluffs

B. *Geisinger*

SCTM# 300-32-1-2.77

16 S. Fulton

Montauk

Project Description: 17 x 34 swimming pool

C. *Hootstein*

SCTM# 300-80-3-30

110 Old Stone Highway

Springs

Project description: To demolish the existing house and construct a 1,400 sq. ft. one story residence with a 170 sq. ft. front deck, a 500 sq. ft. back deck a 200 sq. ft. pool house and a new sanitary system on a parcel of land within wetland jurisdiction.

VII. BOARD DETERMINATIONS:

A. AFMP

SCTM# 300-22-1-4

204 Old Montauk Highway

Montauk

Modification Request

B. Fischer/Bruno

SCTM# 300-20-5-9

116 Old West Lake Drive

Montauk

Modification Request

VIII. BOARD DECISIONS:

A. Michael Hoeh

SIZE/LOCATION: 20,924 sq. ft. (total), 26 Bay Inlet Road, Lion Head Beach; # 3451; lot 51, Springs (300-

023-01-23)

DESCRIPTION: To demolish an existing one story residence and construct a new 3,408 sq. ft. two-

story residence, swimming pool with decking and patio, sanitary system and driveway

on a parcel of land containing wetlands and surface waters.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to ? 255-4-20 and variances from

? 255-4-30 and ? 255-11-10 (Table of Dimensional Regulations) of the Town Code and

any other relief necessary. The following variances are required: (1) & (2) Variances of

24? & 35? are required to allow the residence and decking to be constructed 76? & 65?

from wetlands where a 100? setback is required & (3) a 4? variance is required to install

the sanitary system 146? from wetlands where a 150? setback is required.

ZONING DISTRICT: B Residence, AE Flood Zone, elevation 8' & X Flood Zone

SEQRA CLASS: Type II

5/23/2017

B. Robert DeNiro

SIZE/LOCATION: 61,478 sq. ft. (total), 242 Old Montauk Highway, Montauk (300-087- 03-06)

DESCRIPTION: To demolish an existing residence and construct a new 2,554 sq. ft. two-story

residence with basement, 740 sq. ft. of decking and a sanitary system on a parcel of land containing coastal bluffs and beaches.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to ? 255-4-20 variances from ?

255-4-40C (Coastal setbacks) of the Town Code and any other relief necessary.

Variances of 70? and 75? are required to construct the residence and decking 55? & 49.6? respectively from the bluff toe where a 125? setback is required. The sanitary system has been proposed more than 200? from wetlands.

ZONING DISTRICT: A Residence Zone X Flood Zone, Velocity (VE) Flood Zone, el. 18'

SEQRA CLASS: Type II

C. Christopher Haak

SIZE/LOCATION: 29,553 sq. ft., 81 Northwest Landing Road, East Hampton (300-090-03- 13)

DESCRIPTION: To demolish an existing one story residence with shed and construct a new 1,556 sq. ft. two story residence with 709 sq. ft. of first and second story decking, a 236 sq. ft.

patio, 192 sq. ft. shed, relocated driveway, and new sanitary system within jurisdiction

and minimum setbacks of wetlands and within front yard lot line setbacks.

RELIEF SOUGHT: Six variance and a Natural Resources Special Permit pursuant to ?255- 4-20 of the East

Hampton Town Code are required for this application. Variances of 61.1?, 71.1?, 71.1?,

and 71.2? from ?255-4-30 of the Town Code are required to construct the residence,

decking, patio, and shed 38.9?, 28.9?, 28.9?, and 38.8?, respectively, from wetlands

where 100? setbacks are required. One variance of 10? is required to construct the shed

20? from the front yard lot line where a 30? setback is required. One variance of 163.6?

from ?255-3-75B of the Town Code, is required to construct the new sanitary system

36.4? from wetlands where a 200? setback is required, and any other relief necessary.

ZONING DISTRICT: A2 Residence AE Flood Zone, elevation 6

SEQRA CLASS: Type II

D. AAS184 LLC

SIZE/LOCATION: 32,800 sq. ft. (total), 184 Old Montauk Highway, Montauk (300-184- 03-21)

DESCRIPTION: To demolish an existing approximately 2,112 sq. ft. multi story residence and construct

a new 2,476 sq. ft. two story residence with approximately 2,375 sq. ft. of terraces, walkways, and stairs, an outdoor shower, retaining walls, a 1,908 sq. ft. driveway, and new sanitary system within jurisdiction of bluffs, the toe of bluff, and beach vegetation.

RELIEF SOUGHT: Five variances and a Natural Resources Special Permit pursuant to ? 255-4-20 of the

East Hampton Town Code are required for this application. Variances of approximately

51.7?, 66.6?, 66.7?, 52.2?, and 57.4? are required from ?255-4-40C of the Town Code in

order to construct the residence, walkways/terrace/patio, retaining wall, outdoor shower, and sanitary system approximately 73.9?, 57.4?, 58.3?, 72.8?, and 67.6? respectively, from the toe of bluff where 125? setbacks are required, and any other relief necessary.

ZONING DISTRICT: A Residence Zone X Flood Zone

SEQRA CLASS: Type II

E. East Hampton Ventures LLC

SIZE/LOCATION: 41,765 sq. ft. total, 26 Fenmarsh Rd, Map No. 2831; Map of Clearwater Beach Sec. II,

Lot 259, Springs (300-039-01-04)

DESCRIPTION: To renovate the existing 2,118 sq. ft. house, to convert a 91 sq. ft. second story deck

into living space, to construct a 281 sq. ft. two story addition, to resurface and construct an additional 40 sq. ft. of new decking around the outdoor shower, to rebuild swimming pool and to resurface and increase pool decking 46 sq. ft., to relocate the pool equipment, and to create a new 4 ft. wide path to access Hog Creek

on a parcel of land with wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to ? 255-4-20 and four variances from ?

255-4-30 (wetland setbacks) of the Town Code. Variances of 17.4 ft., 24.6 ft., 46.6 ft.,

and 38 sq. ft. are required to respectively convert an existing 2nd floor deck to living space 82.6 ft., construct new shower decking 75.4 ft., add on to pool decking 53.5 ft.,

and replace pool 62 ft. from the wetlands where a 100 ft. minimum setback is required.

ZONING DISTRICT: B Residence AE6- X flood

SEQRA CLASS: Type II

F. Richard Magrino

SIZE/LOCATION: 7,320 sq. ft. (total), 76 Benson Drive, Oceanside at Montauk, lot 114, map # 2730,

Montauk (300-030-05-2.2)

DESCRIPTION: To allow a 368 sq. ft. deck addition to remain and an approximately 64 sq. ft. shed to

remain relocated within jurisdiction and setbacks of freshwater wetlands.

RELIEF SOUGHT: Two variance and a Natural Resources Special Permit pursuant to ?255- 4-20 of the

East Hampton Town Code are required for this application. Variances of 74? and 46.7?

are require from ?255-4-30 of the Town Code to allow the shed relocation and the deck

addition to remain 26? and 53.3? from freshwater wetlands where a 100? setback is required, and any other relief necessary.

ZONING DISTRICT: B Residence Zone X Flood Zone

SEQRA CLASS: Type II

G. Michael Scaraglino

SIZE/LOCATION: 19,967 sq. ft, 189 Old Stone Highway, Springs (300-080-04-07)

DESCRIPTION: To construct a 312 sq. ft. first story deck with staircase on a parcel located within the Town's jurisdiction of wetlands and to allow a second story deck to remain within the Town's jurisdiction of wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to §255-4-20 of the Town Code and a 79.5' Variance from §255-4-30 (Minimum wetland setbacks) to allow the construction of a first story deck with staircase 20.5' from wetlands where a 100' setback is required, and any other relief necessary.

ZONING DISTRICT: A5 Residence Zone X Flood Zone, AE 6, 0.2% annual chance flood hazard

SEQRA CLASS: Type II

H. Zachary Mankes

SIZE/LOCATION: 58,534.412 sq. ft., 28 Washington Drive, Montauk (300-048-08-04)

DESCRIPTION: To construct an approximately 250 sq. ft. two story addition within the minimum front

yard lot line setbacks.

RELIEF SOUGHT: One variance of 6'2.25' from §255-11-10 of the Town Code is required to construct the

proposed addition 33'9.75' from the western front yard lot line where a 40' setback is

required, and any other relief necessary.

ZONING DISTRICT: A Residence Zone X Flood Zone

SEQRA CLASS: Type II

IX. MINUTES APPROVAL:

A. Minutes of October 10th 2017

X. RESOLUTIONS