



EH Town Zoning Board of Appeals

300 Pantigo Place
East Hampton, NY 11937

Denise Savarese
Telephone: (631) 324-8816

**EH Town Zoning Board of Appeals meeting of November 14,
2017
East Hampton, New York**

I. CALL TO ORDER

12:00 AM Meeting called to order on November 14, 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:

III. SCHEDULED PUBLIC HEARINGS:

A. Henry Dittmer

TIME: 6:30:00 PM APPLICANT: Henry Dittmer

SIZE/LOCATION: 1.9 Acres, 5 & 7 Park Street & 621 Stephen Hands path, Cobblers Hill Height, Sec II Map#284, East Hampton (300-136-06-01.1, 2.1, 4, 5)

DESCRIPTION: Subdivision of a 1.9 acre parcel into two lots that both lack the minimum lot width required under zoning.

RELIEF SOUGHT: Variances from 255-11-10 (Table III) of the Town Code and any other relief

necessary. The following variances are required: (1) a 40 wide lot width variance is required to allow for the creation a 120 wide parcel where 160 is the minimum required (Parcel 1); (2) a 40 wide lot width variance to allow for the creation a second 120 wide parcel where 160 is the minimum required (Parcel 2).

ZONING DISTRICT: A Residence Zone X Flood Zone

SEQRA CLASS: Unlisted

i. Technical Analysis Memorandum

Technical Analysis Memorandum

Lead Agency: Planning Board

Planner: JoAnne Pahwul, AICP

Assistant Planning Director

Date completed: July 24, 2017 Site Plan

SEQRA class: Unlisted Sub Waiver X

Physical Location: 621 Stephen Hands Path, 5 & 7 Park St. Subdivision

School District: East Hampton Special Permit

Zoning District: A Residence Zone Change

Overlay District: Water Recharge Overlay Variance X

Tax Map Number: SCTM#300-136-6-1.1, 2.1, 4 & 5 Natural Resources

Applicant: Henry Dittmer Special Permit

c/o Land Planning Services, Ltd. Other:

Telephone: (631) 537-8500

FEMA ZONE: Zone X

Soil Type: MnC, CpC, CpE

Map of Property: Cobblers Hill Heights, Sect 2

Size of Parcel: 82,800 sq. ft.

Project Description: Subdivision of a 1.9 acre parcel into two lots that both lack the minimum lot area required under zoning.

Relief Requested: Variances from 255-11-10 (Table III) of the Town Code and any other relief necessary. The following variances are required: (1) a 40 wide lot area variance is required to allow for the creation a 120 wide parcel where 160 is the minimum required (Parcel 1); (2) a 40 wide lot area variance to allow for the creation a second 120 wide parcel where 160 is the minimum required (Parcel 2).

Property Conditions and History:

The parcel is vacant and wooded and located in a Water Recharge Overlay District, the Pine Barrens, and the South Fork Special Groundwater Protection Area, all groundwater protection areas. The parcel is wooded with oaks (*Quercus*) and Pitch pines (*Pinus Rigida*) with an understory of huckleberry (*Gaylussacia*). A large stand of Mountain laurel (*Kalmia latifolia*), a New York State protected plant species is also located on the site. The site contains extensive areas of rolling to steep slopes and knob and kettle topography, with a large kettlehole in the center.

The property is considered one lot in the Old Filed Map Study and consists of lots 1-33 in Block 20 of the Cobblers Hill Height, Section 2, Map #284, filed in 1911. The applicant proposes to subdivide the parcel into two lots of 40,080 and 42,720 sq. ft., respectively, where the minimum lot area requirement is 40,000 sq. ft. Both lots have frontage on both Park Street and Stephen Hands Path.

The Old Filed Map Study requires a 50 wide scenic easement along Stephen Hands Path on all parcels that front this road. The Old Filed Map Study apparently also recognized the difficulty of developing the steep slopes on the subject parcel and recommended that it be acquired for park purposes. This study dates from the 1970's prior to the Town's Open Space Plan and open space legislation and the recommendation for a park would appear to be synonymous with a recommendation for open space. This recommendation is consistent with at least one other area of the Town located in the Urban Renewal Map with similar topographical constraints. Planning Department Analysis and Recommendations for the Board's Consideration

Extent of Variances

The parcel is not subdividable into two lots that meet zoning. If the property were to be divided into two lots in a direction parallel to Stephen Hands Road and Park Street, the minimum lot width could be met for both lots, but the steep slopes and topography that are required to be excluded from building envelopes under zoning would not allow for building envelopes large enough to be viable for development. Subdividing the lots in the other alternative direction, perpendicular to Stephen Hands Road and Park Street, as is proposed, results in lots that lack the minimum lot width.

The proposed variances requested for the reduction in lot width from 160 to 120 represent 25% of the minimum lot width requirement pursuant to §255-11-10 (Dimensional Table) of the Town Code.

Topography & Steep Slopes

The parcel has knob and kettle topography typical of the glacial moraine with steep slopes that direct runoff into a kettlehole in the center of the lot, recharging water to the aquifer. The extensive areas of steep slopes on the parcel greatly constrain development. The Town Code discourages massive regrading and prohibits including areas with slopes of greater than 20% from being included as buildable areas in subdivision lots.

220-1.09 states that where slopes, depressions and elevations occur outside of open space areas, lot lines shall generally follow such topographic irregularities so as to incorporate such irregularities into required side and rear yards.

220-1.08 of the Town Code states that building envelopes shall be designed based on criteria that include relatively flat terrain, both at the home site and along access drives, requiring a minimum of filling or cutting.

Building Envelopes

Building envelopes that exclude slopes of 20% and greater have been designated for the two proposed lots, as required by the Town Code. The Planning Board also recommended that the building envelope on Parcel 2 be adjusted to exclude an area where a stand of Mountain Laurel, a New York State protected plant species, was identified.

There is a kettlehole in the center of this parcel that is defined by surrounding concentric topographic contour lines that comprise the sides of the kettlehole. The bottom of the kettlehole is located at an elevation of 92 with contours on the westerly side rising to an elevation of 120. This side of the kettlehole is excluded from the building envelope and protected by a scenic easement.

On the easterly, or opposite side, the elevations rise to 120 on Parcel 1 and 96 on Parcel 2. All of the contours except the 92 contour at the bottom of the kettlehole fall within the building envelopes of the two proposed lots and are unprotected and subject to clearing, grading, and construction. The building envelope on Parcel 1 is within approximately 8' of the bottom of the kettlehole and grading in such close proximity to the bottom of the kettlehole will eliminate its easterly side and disrupt water recharge.

Kettleholes are characteristic of glacial moraines and serve to collect surface water runoff for recharge into the aquifer. The subject parcel is located in three groundwater protection areas and groundwater recharge is an important function of the land. Therefore, it is recommended that the building envelope on Parcel 1 be pulled back to at least to the 96 contour, and preferably to the 98 contour, to protect the kettlehole which functions as a water recharge area and the building envelope on Parcel 2 to the 94 or 96 contour line.

The amount of clearing permitted on the proposed lots exceeds the sizes of the building envelopes. In order to reduce the extent of potential clearing and grading and promote and protect the water recharge value of the parcel, the Planning Department recommends that all clearing, grading and construction be located within the designated building envelopes.

	Proposed Size of Building Envelope Coverage	Maximum Clearing Permitted	Maximum Building Coverage	Maximum Total
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Lot 1	@ 12,780 sq. ft.	6,012 sq. ft.	16,032 sq. ft.	15,010 sq. ft.
Lot 2	@ 10,250 sq. ft.	6,400 sq. ft.	17,088 sq. ft.	15,340 sq. ft.

The applicant must demonstrate compliance with the Variance standards of 255-8-50 of the Town Code in order to be eligible for the issuance of the requested variances. The Zoning Board must determine if the variances required are substantial and whether the granting of the variances will have an adverse effect or impact on the environment.

Summary of Mitigation

- a. The building envelope on Parcel 1 should be adjusted at least to the 96 contour, and preferably to the 98 contour, to protect the kettlehole which functions as a water recharge area and the building envelope on Parcel 2 to the 94 or 96 contour line.
- b. All clearing, grading, and construction should be confined to the building envelopes.
- c. A project limiting fence and straw bales with silt mesh fencing for sediment control should be installed at the limits of the building envelopes prior to commencing any clearing or grading.
- d. The Board, or their delegate, should inspect the project limiting fencing and straw bales for adequacy prior to the issuance of a building permit.

B. George & Anastasia Gavalas

TIME: 6:50:00 PM APPLICANT: George & Anastasia Gavalas

SIZE/LOCATION: 28,874 sq. ft. total, 43 Marine Blvd., Map No. 4987; Seaview at Amagansett Lot 39, Amagansett (300-179-01-09)

DESCRIPTION: To construct two approximately 51 sq. ft. one story additions, a 64 sq. ft. one story

addition, a 21 sq. ft. one story addition, a 56 sq. ft. one story addition, a 175 sq. ft. one story addition with covered porch and steps, a 360 sq. ft. attached garage with a second story deck, and a 342 sq. ft. second story addition on a parcel of land with dune crests and wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to Section ? 255-4-20 and ten variances from 255-4-40 (Coastal setbacks) of the East Hampton Town Code and any relief

necessary. Variances of 67.8 ft., 77.5 ft. 58 ft. 44 ft. 50 ft, 45 ft. 50 ft, 45 ft, 55 ft. are respectively required to construct six additions to the existing residence 32.2 ft., 22.5 ft., 42 ft., 56 ft., 50 ft., 55 ft. , 50 ft., 55 ft., and 45 ft. from the dune crest where a 100 ft. minimum setback is required. A 32 ft. variance is required to construct a second story deck on the garage 68 ft. from the wetland where a minimum 100 ft. setback is required.

ZONING DISTRICT: B Residence VE velocity flood zone

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Lisa D?Andrea

Date completed: April 20, 2017Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 43 Marine Blvd. Subdivision

School District: Amagansett Special Permit

Zoning District: B Residence Zone Change

Overlay District Coastal Erosion Overlay Zone 1 Variance XX

Tax Map Number: 300-179-01-09 Natural Resources

XX Applicant: George & Anastasia Gavalas Special Permit

c/o Jeffrey L. Bragman, PC

15 Railroad Ave., Suite #1

East Hampton, NY, 11937

Telephone: 631-324-3737

FEMA ZONE: VE 17 and AE 10 Flood Zones

Soil Type: Dune land (Du) and Beaches (Bc)

Map of Property: Map No. 4987; Seaview at Amagansett Lot 39

Size of Parcel: 28,874 sq. ft. total

Project Description: To construct two approximately 51 sq. ft. one story additions, a 64 sq. ft. one story addition, a 21 sq. ft. one story addition, a 56 sq. ft. one story addition, a 175 sq. ft. one story addition with covered porch and steps, a 360 sq. ft. attached garage with a second story deck, and a 342 sq. ft. second story addition on a parcel of land with dune crests and wetlands.

Relief Requested: A Natural Resources Special Permit pursuant to Section ? 255-4-20 and ten variances from 255-4-40 (Coastal setbacks) of the East Hampton Town Code and any relief necessary. Variances of 67.8 ft., 77.5 ft. 58 ft. 44 ft. 50 ft, 45 ft. 50 ft, 45 ft, 55 ft. are respectively required to construct six additions to the existing residence 32.2 ft., 22.5 ft., 42 ft., 56 ft., 50 ft., 55 ft. , 50 ft., 55 ft., and 45 ft. from the dune crest where a 100 ft. minimum setback is required. A 32 ft. variance is required to construct a second story deck on the garage 68 ft. from the wetland where a minimum 100 ft. setback is required.

Property and History:

A 2,717 sq. ft. two story residence with a breezeway, 292 sq. ft. attached garage and 680 sq. ft. of decking was constructed in 1969. In 1982 a variance for a dune setback requirement for a 96 sq. ft. addition to the pre-existing non conforming residence was granted by the Board. The most recent Certificate of Occupancy was issued February 4, 1987 for the 96 sq. ft. addition and interior alterations.

The current owner acquired the property in 2014 and should be fully aware of the vulnerability and constraints of the property.

All existing and proposed structures are depicted on a Saskas Surveying survey dated revised March 9, 2017 and received by the Board on April 5, 2017. The Gavalas Residence building plans by Ernest Schieferstein Architect, dated revised February 1, 2017 were received by the Board on February 7, 2017.

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

The July 22, 1969 CO records the house as being 2,373 sq. ft. with a 300 sq. ft. garage and 680 sq. ft. of decking. On October 4, 1987 a CO 96 sq. ft. addition with complete interior alteration was issued. The applicant has reviewed buildings plans for the house and has submitted information that was received by the Board on October 23, 2017 that revises the house as 2,717 sq. ft. with a 292 sq. ft. detached garage. (The garage is not included in GFA because it is not habitable space). Presuming the GFA is actually the larger number a 50% expansion of the non-conforming structure would be limited to 1,358 sq. ft. A 96 sq. ft. addition was put on in 1987 and the remaining expansion that could be permitted is 1,252 sq. ft. The applicant is proposing to convert the 292 sq. ft. garage into habitable space, construct a 360 sq. ft. attached garage, and construct 657 sq. ft. of additions. The proposed 360 sq. ft. detached garage is not included in the GFA because it will not be utilized as habitable space. The overall increase in non-conforming GFA will be approximately 943.5 sq. ft. and within the limit allowed.

The applicant is proposing seven additions of various sizes and an attached garage with a roof deck to be constructed on to the pre-existing non-conforming structure. The attached garage which will be landward of the house requires a 41.2% variance and the roof deck a 32% variance. All of the other proposed additions will require more substantial variances. Two of the additions are proposed to be seaward of the existing structure although within the existing footprint.

The house is situated about 110 feet seaward of the FEMA designated Limit of Moderate Wave Action (LIMWA) Line. In fact, the entire property except the extreme northwest corner is seaward of the LIMWA line. Three quarters of the property lies seaward of the Coastal Erosion Hazard Line (CEHA) and the residence itself is at it's most landward point still 80 ft. seaward of the CEHA line. It should be noted that the CEHA was mapped in 1988 and may not accurately represent current coastal risks. The residence is located in a VE 17 flood zone. The improvements are proposed to remain wholly within the Velocity Flood Zone

which is defined by FEMA as "coastal high hazard areas. They are subject to high velocity water including waves; they are defined by the 1% annual chance (base) flood limits (also known as the 100-year flood) and wave effects 3 feet or greater.

The house as is exists does not meet the Town's minimum dune crest setback of 100 ft. Coastal setbacks which were codified to protect our natural resources and to lessen the danger to life and property caused by coastal flooding and storms. The Planning Department feels that it is not prudent to allow the expansion of such a non-conforming structure located so close to the dune crest. One must keep in mind that beaches and dunes are dynamic features and that the existing residence is in an extremely vulnerable location. The patterns of sand movement and dune formation that may characterize an area could change gradually over the years or change dramatically with a severe storm or hurricane event.

Recommended Project Conditions:

- a. Project limiting fencing consisting of 4 snow fence shall be erected in the location depicted on the attached Planning Department sketch dated April 18, 2017 adapted from the approved Saskas Surveying survey dated revised March 9, 2017. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged, deteriorated or upon request of the Building Department or a delegate of the Zoning Board of Appeals.
- b. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing for proper installation.
- c. The clearing of vegetation and the filling, grading or recontouring of the property shall be strictly limited to the boundaries established by the Board and any proposed grading plan.
- d. All areas disturbed by construction activities should be revegetated with Beach Grass (*Ammophila breviligulata*) planted 12 on centers in culms of three or more in staggered rows.
- e. The Dune land soils excavated for the approved structures shall be retained on site and used for backfill and top dressing to facilitate the retention of the dune land character and the recolonization of disturbed areas with indigenous dune land species.

- f. The establishment of turf, lawn, sod or ornamental vegetation should be prohibited.

- g. The residence should be furnished with gutters and leaders to direct stormwater from roofs into one or more catchment basins. Said catchment basin or basins should have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin should be made available for inspection by the building inspector prior to backfill.

- h. All structures should be situated at least 2 above the seasonal high groundwater table.

- i. The applicant shall prepare and submit a declaration of covenants and restrictions, incorporating the provisions of the appropriate paragraphs of this determination in standard form acceptable to and approved by Counsel to this Board. The said declaration shall provide for its modification or termination only upon the approval of the East Hampton Town Zoning Board of Appeals, after a public hearing held on ten (10) days notice. Said declaration, after approval by counsel, shall be recorded at the Office of the Suffolk County Clerk.

- j. An Article 25 Tidal Wetland permit should be obtained from the New York State Department of Environmental Conservation (NYSDEC) prior to the issuance of a building permit for this project.

- k. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.

IV. WORK SESSION:

V. EXTENSION OF TIME:

A. *Laura Michaels*

SCTM# 300-28-4-27

71 S. Edgemere, Montauk

Extension of Time request for the purposes of maintaining valid Building Permit and obtaining a Certificate of Occupancy

B. 57 Waters Edge LLC

SCTM# 300-83-7-15.1

57 Waters Edge

Springs

Request for an Extension of Time to maintain valid Building Permit and issue a Certificate of Occupancy

C. Brian Houlihan/Adam Reback

SCTM# 300-131-1-12

1879 Montauk Highway

Amagansett

Extension of Time

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

D. White Co. LLC

SCTM# 300-74-7-29.2

35 Springwood Way

East Hampton, NY

Extension of Time

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

E. White Co. LLC

SCTM# 300-74-7-29.1

33 Springwood Way

East Hampton, NY

Extension of Time

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

F. 3 Calf Creek LLC

SCTM# 300-152-2-15.21

25 Whalers Lane

Amagansett

Extension of Time

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

G. *Joshua Young & Christine Lemieux*

SCTM# 300-84-2-10.1

157 Mulford Lane

Amagansett

Extension of Time

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

VI. POSSIBLE ADMINISTRATIVE APPLICATIONS:

A. *23 FVMTK LLC*

SCTM# 300-43-8-10.2

23 Fairview Road, Montauk

Two story residence 3,528 total sq. footage

VII. BOARD DETERMINATIONS:

A. *AFMP*

SCTM# 300-22-1-4

204 Old Montauk Highway

Montauk

Modification Request

B. Gazza

SCTM# 300-123-3-2.003

58 Muir Blvd.

East Hampton, NY

Letter from Applicant regarding a Pending Natural Resources Special Permit Application

VIII. BOARD DECISIONS:

A. 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

B. Otis CMS

SIZE/LOCATION: 47,210 sq. ft. (total), 189 Marine Blvd, Map of Beach Hampton; # 1283; Sec. 2; lots 4-12, Amagansett (300-176-08-23)

DESCRIPTION: To demolish an existing one story residence and construct a new 4,973 sq. ft. two

story residence with first and second story decking, swimming pool, accessory building with roof deck and new sanitary system on a parcel of land containing barrier dunes, dune land and beach vegetation.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 and variances from 255-4-40 (Coastal setbacks) and 255-11-10 (Table of dimensional regulations) of

the Town Code and any other relief necessary. A 47.2 variance is required to allow the accessory building and roof deck to be located 52.2 from the primary (barrier) dune crest where a 100 setback is required and a 7 variance is required to allow the residence to extend 32 above natural grade where 25 is the maximum for a flat roofed structure. The residence and swimming pool have been proposed 100 from the primary dune crest.

ZONING DISTRICT: A Residence VE velocity flood zone, el. 17',

SEQRA CLASS: Type II

C. 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

D. *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

E. *Sinawi*

SIZE/LOCATION: 44,617 sq. ft. (total), 4 Waring Lane, Springs (300-039-14-11)

DESCRIPTION: To demolish an existing residence and construct a new 2,871 sq. ft. two-story

residence with 548 sq. ft. of decking, a sanitary system, swimming pool and a 600 sq. ft. detached garage on a parcel of land containing tidal wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 and variances from 255-4-40 (Minimum wetland setbacks) and 255-3-75B (Harbor Protection Overlay

District regulations) of the Town Code and any other relief necessary. An 11.9

variance is required to construct the residence 88.1? from wetlands where a 100

setback is required and a 99 variance is required to install the sanitary system

approximately 101 from wetlands where a 200 setback is required. The detached

garage and swimming pool have been proposed 100 from wetlands.

ZONING DISTRICT: A5 Residence AE Flood Zone, elevations 8' & 9', X Flood Zones

SEQRA CLASS: Type II

IX. MINUTES APPROVAL:

A. *October 24th Minutes*

X. RESOLUTIONS

A. *Scaraglino*

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

MICHAEL SCARAGLINO

SCTM # 300-80-04-07

HEARING DATE: October 3, 2017

PRESENT: JOHN P. WHELAN, Chair
 CATE ROGERS, Vice-Chair
 DAVID LYS, Member
 THERESA BERGER, Member

ALSO PRESENT:

ELIZABETH L. BALDWIN, ESQ., Counsel to the Board

DENISE SAVARESE, Legislative Secretary

JAMES KOMMER, Planning Department

DOUG MOLITERNO, ESQ., Agent for Applicant

MICHAEL SCARAGLINO, Applicant

FINDINGS OF FACT AND DETERMINATION OF THE BOARD

The findings of fact and determination made herein are based upon the application, the evidence received at the public hearing before the Board, all documents contained in the Board's files and which were received prior to the close of the hearing, and the inspection and field report made by Vice Chair Rogers of this Board.

A. PROJECT DESCRIPTION:

1. PURPOSE OF APPLICATION:

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.

2. RELIEF OR APPROVAL SOUGHT:

A Natural Resources Special Permit (NRSP) pursuant to Section 255-4-20 of the East Hampton 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.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 19,967 sq. ft. (total)
2. STREET LOCATION: 189 Old Stone Highway
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Springs
5. FILED MAP NAME: N/A
6. FILED MAP NUMBER: N/A
7. DATE OF MAP FILING: N/A
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: N/A
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-80-4-07

C. ZONING INFORMATION

1. ZONING DISTRICT: A5 Residence
2. ZONING OVERLAY DISTRICT: Harbor Protection Overlay District
(HPOD)

D. SEQRA DETERMINATION

1. SEQRA CLASSIFICATION: Type II
2. LEAD AGENCY: N/A
3. DETERMINATION OF SIGNIFICANCE: N/A
4. DATE OF DETERMINATION: N/A

E. STANDARDS FOR BOARD REVIEW

1. In order to be eligible for issuance of the requested Natural Resources Special Permit, applicant must show that the proposed action is compatible with the purposes of ??

255-1-11 and 255-4-10 of the East Hampton Town Code and satisfies the criteria set forth in ?? 255-5-40 and 255-5-51 (Natural Resources Special Permit) of the Town Code.

2. In order for this Board to grant applicant the requested area variance, applicant must demonstrate that the requirements of Town Law ? 267-b 3 have been met. The Board is to ?take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.? The Town Law also directs the Board, in granting area variances, to ?grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.?

3. The standards set forth in Town Code ? 255-8-50 (D) paraphrase the requirements language of Town Law ? 267-b 3:

a) the benefit to applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety, and welfare of the neighborhood or the Town as a whole; and

b) the variances sought are the minimum variances necessary and adequate to alleviate the difficulty causing applicant to request an area variance, while at the same time preserving and protecting the character of the neighborhood and the general health, safety, and welfare of the Town as a whole.

4. The Board finds that grant of the instant application will be consistent with the requirements of both Town Law ? 267-b and Town Code ? 255-8-50.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The subject premises consist of 19,967 sq. ft. and are located in an A5 Residential Zone. The parcel is in the hamlet of Springs on the north side of Old Stone Highway and is improved with a stone driveway, wood walk, deck, second story deck, outdoor shower (labeled to be removed) two-story one-family residence, shed with attached structures, including a bin (labeled to be removed). The property lies within the Harbor Protection Overlay District (HPOD). The most recent Certificate of Occupancy was issued January 18, 1989. The applicant came before the board previously in August of 2016 to apply for a Natural Resource Special Permit pursuant to ?255-4-20 and a variance from ? 255-4-30 (Minimum wetland setbacks) to construct a 468 sq. ft. first story deck and second story landing and steps on a parcel of land containing freshwater wetlands. While the application had proposed the construction of these structures and had yet to obtain approval, the structures had been constructed anyway without benefit of variance, NRSP or building permit. The application was subsequently denied. All existing and proposed structures are depicted on an East End Land Surveying, P.C. survey dated last revised April 28, 2017, and stamped received by the Zoning Board on May 16, 2017.

2. The subject property is located on the north side of Old Stone Highway in the Harbor Protection Overlay District in Springs and is surrounded to the north and west by expansive freshwater wetlands which in turn transition to the tidal wetlands of Accabonac Harbor. The wetlands within jurisdiction are an example of a high quality, minimally disturbed tupelo-maple swamp. The aforementioned wetlands perform numerous ecological services, providing habitat for native plant and animal species and a stopover for migrating birds, as well as acting as a buffer to nearby Accabonac Harbor, attenuating stormwater runoff, aiding to dissipate and remove pollutants and helping to maintain surface water quality. Over development of the area and encroachment on the local wetlands potentially reduces the resiliency of the local environment and could lead to its degradation and the loss of the vital environmental services it provides. When wetlands are degraded by encroachment, water will not be as clean, human, fish and bird populations could be affected, and the severity of floods could increase. As such, the development potential of the property is highly constrained by its proximity to the wetlands surrounding and running through the west side of the property and the non-conforming nature of the lot.

3. The applicant is proposing to construct a 312 sq. ft. first story deck with staircase and second story landing on a parcel located within the Town's jurisdiction of wetlands. While the variances requested are substantial, the proposed first story deck has been redesigned and reduced in size compared to the currently existing non-conforming structure and thus requires less of a variance than originally sought, will be situated entirely within the footprint of the pre-existing second story deck and will not require additional clearing or grading. The proposed structure doesn't reduce the required setbacks or relocate to a more conforming location, but as it is beneath a currently existing structure, will potentially reduce runoff and the risk of flooding in the area. The existing structure will be replaced with untreated, non-leaching materials, minimizing impact on the nearby wetlands. The applicant has also offered to remove a ?shed bin? and outdoor shower constructed on the property without benefit of building permits and has already removed a pergola constructed on the eastern side of the residence without benefit of a building permit.

4. The Board finds that granting the requested variances will not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The deck will be located over an existing patio. Revegetation of a cleared area will offset any detrimental impacts to the wetlands and nearby properties.

5. The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested area variances. The applicant is proposing a deck over an existing patio and within the footprint of an existing second story deck.

6. The Board finds, with the mitigation below, that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Applicant will be required to replace the existing decks with untreated wood and to provide some revegetation along the property line. These conditions will offset the overall impact to these highly sensitive wetlands.

7. The Board finds that although the requested variances may be considered substantial, they are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the area variances. Applicant has reduced the original size of the first floor deck in order to maintain the existing footprint of the second story deck. Keeping the decks within the footprint and over an existing patio, along with the required mitigation, will offset the overall impacts to the wetlands.

8. The Board finds that the need for the variances is self-created. The Board finds however, that although the need for the requested variances is self-created, this need, although relevant to the Board's decision does not preclude the granting of the requested variances. Town Law §267-b(3)(b)(5).

9. The Board finds that the benefit to the applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety and welfare of the neighborhood and the Town as a whole.

10. The Zoning Board finds the nature of the proposed use will be in harmony with and will promote the general purposes of the Town of East Hampton Zoning Law as described by § 255-1-11 of the Town Code.

11. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. No dimensional relief is required for construction of the deck.

12. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties as no impact to adjacent properties is anticipated from the construction of the proposed project.

13. The Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features. Applicant will be replacing any existing wood on the deck with untreated lumber and revegetating a buffer to the wetlands in order to minimize impacts to the wetlands.

14. The Board finds that the proposed project, constructed in accordance with the proposed mitigation measures set forth below, promote the public interest in adequately preserving the wetlands located on the subject parcel.

G. DISPOSITION OF APPLICATION

For the reasons set forth herein, the Board makes the following determination with respect to the application:

1. RELIEF OR APPROVAL GRANTED:

A Natural Resources Special Permit (NRSP) pursuant to Section 255-4-20 of the East Hampton Town Code and a 79.5% variance from 255-4-30 (Minimum wetland setbacks) are granted to allow the construction of a first story deck with staircase 20.5% from wetlands where a 100% setback is required.

2. DESCRIPTION OF WORK APPROVED:

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.

H. CONDITIONS OF APPROVAL

Grant of the specified variances is specifically conditioned upon compliance with the conditions set forth in this section of the determination. All improvements shall be made, built, or installed in accordance with the survey and plans described below.

1. APPROVED SURVEY: Prepared by East End Land Surveying, P.C., survey dated revised April 28, 2017, and stamped received by the Zoning Board on May 16, 2017.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: N/A

3. APPROVED PLANNING DEPARTMENT SKETCH: Dated July 14, 2017, and adapted from the East End Land Surveying, P.C., survey, dated last revised April 28, 2017.

4. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:
 - a. Sediment control fencing consisting of staked straw bales or reinforced silt fence shall be erected in the location depicted on the approved Planning Department sketch referenced above. The fencing shall be installed and maintained in accordance with the New York State Standards and Specifications for Erosion and Sediment Control manual prior to the commencement and 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 or straw bales for proper installation.
 - c. The clearing of vegetation and the filling, grading or recontouring of the property shall be strictly prohibited.
 - d. The applicant shall revegetate the area cleared into the Town of East Hampton/The Nature Conservancy property as depicted on the approved survey and also 5 feet into the rear property line. Applicant shall submit a revegetation plan to the Zoning Board for approval prior to issuance of a building permit. The revegetation shall be completed and approved by the Planning Department prior to issuance of a Certificate of Occupancy.
 - e. The outdoor shower and bin as depicted on the approved survey shall be removed prior to issuance of Certificate of Occupancy.
 - f. Any building materials shall be composed of untreated timber or synthetic materials that will not leach chemicals into wetlands.
 - g. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.

h. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of issuance of a building permit.

i. A copy of the Natural Resources Special Permit, the approved survey, and the approved building plans shall be available on the parcel at all times.

I. VALIDITY OF APPROVAL

If any condition of this determination is not met, or is not met within the prescribed time period, all approvals, permits, or authorizations granted hereby shall be deemed void and of no effect.

ALL CONCUR:

JOHN P. WHELAN, Chair

CATE ROGERS, Vice-Chair

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Member

Dated: November 14, 2017

cc: Building Department

Planning Department

Doug Moliterno, Esq., Agent for Applicant

B. DeNiro

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

ROBERT DeNIRO

SCTM # 300-87-03-06

HEARING DATE: September 26, 2017

PRESENT: JOHN WHELAN, Chair
 CATE ROGERS, Vice-Chair
 DAVID LYS, Member
 ROY DALENE, Member
 THERESA BERGER, Member

ALSO PRESENT: ELIZABETH L. BALDWIN, ESQ., Counsel to the Board
 DENISE SAVARESE, Legislative Secretary
 BRIAN FRANK, Planning Department
 RICHARD E. WHALEN, ESQ., Agent for Applicant
 PAMELA GLAZER, Architect for Applicant
 BLAIR DRIBBLE, Contractor for Applicant

FINDINGS OF FACT AND DETERMINATION OF THE BOARD

The findings of fact and determination made herein are based upon the application, the evidence received at the public hearing before the Board, all documents contained in the Board's files and which were received prior to the close of the hearing, and the inspection and field report made by Member Berger of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION: 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.

2. RELIEF OR APPROVAL SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to ?255-4-20 and variances from ? 255-4-40C (Coastal setbacks) of the Town Code and any other relief necessary are required for the proposed project. Variances of 70? and 75? are required to construct the residence and decking 55? and 49.6? respectively from the bluff toe where a 125? setback is required. The sanitary system has been proposed more than 200? from wetlands.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 61,478 sq. ft. (total)
2. STREET LOCATION: 242 Old Montauk Highway
3. CONTIGUOUS WATER BODIES: Atlantic Ocean
4. HAMLET OR GEOGRAPHIC AREA: Montauk
5. FILED MAP NAME: N/A
6. FILED MAP NUMBER: N/A
7. DATE OF MAP FILING: N/A
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: N/A
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-87-03-06

C. ZONING INFORMATION

1. ZONING DISTRICT: A Residence
2. ZONING OVERLAY DISTRICT: Coastal Erosion Overlay Zone 1

D. SEQRA DETERMINATION

1. SEQRA CLASSIFICATION: Type II
2. LEAD AGENCY: N/A
3. DETERMINATION OF SIGNIFICANCE: N/A
4. DATE OF DETERMINATION: N/A

E. STANDARDS FOR BOARD REVIEW

1. In order to be eligible for issuance of the requested Natural Resources Special Permit, applicant must show that the proposed action is compatible with the purposes of ?? 255-1-11 and 255-4-10 of the East Hampton Town Code and satisfies the criteria set forth in ?? 255-5-40 and 255-5-51 (Natural Resources Special Permit) of the Town Code.

2. In order for this Board to grant applicant the requested area variance, applicant must demonstrate that the requirements of Town Law ? 267-b 3 have been met. The Board is to ?take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area

variance.? The Town Law also directs the Board, in granting area variances, to ?grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.?

3. The standards set forth in Town Code ? 255-8-50 (D) paraphrase the requirements language of Town Law ? 267-b 3:

a) the benefit to applicant from grant of the requested variance outweighs any detriment which grant of the variance will cause to the general health, safety, and welfare of the neighborhood or the Town as a whole; and

b) the variances sought are the minimum variance necessary and adequate to alleviate the difficulty causing applicant to request an area variance, while at the same time preserving and protecting the character of the neighborhood and the general health, safety, and welfare of the Town as a whole.

4. The Board finds that grant of the instant application will be consistent with the requirements of both Town Law ? 267-b and Town Code ? 255-8-50.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The subject premises are improved with a residence and detached 735 sq. ft. garage originally constructed prior to the adoption of zoning. A swimming pool was added to the property pursuant to a 1969 building permit and the most recent Certificate of Occupancy (CO) for the existing improvements on the property was issued in 1975. The existing residence has a footprint of 1,920 sq. ft. and is one story on the northern (street) side and two stories, as the grade drops, to the south (waterfront) side of the property. Based upon calculations from the architect, the existing residence comprises 2,983 sq. ft. with approximately 705 sq. ft. of the lowest floor being a crawl space that is usually excluded from gross floor area as defined in the Town Code. The swimming pool is proposed to remain and its surrounding concrete patio is proposed to be resurfaced. The survey depicting the existing and proposed conditions was prepared by George Walbridge Surveyors, P.C., dated last revised September 20, 2017 and stamped received by the Zoning Board on September 22, 2017. The corresponding floor and elevation plans were prepared by Pamela Glazer, Architect (9 pages) dated last revised September 21, 2017, and stamped received by the Zoning Board on September 22, 2017. The application also includes a site plan for the proposed sanitary system and associated retaining walls prepared by S.L. Maresca Associates, dated last revised November 9, 2016, and stamped received by the Zoning Board on March 22, 2017. The application appears to require a permit from the New York State Department of Environmental Conservation (NYSDEC) for

the portions of the construction that are proposed adjacent or seaward of the State designated Coastal Erosion Hazard Area (CEHA) boundary.

2. The property is located along the oceanfront within the "Hither Hills" section of Montauk. This area is the only location in Town where coastal setbacks and lot area are measured from the base or "toe" of the bluff instead of the crest of the bluff (or barrier dune). The property can be described as a unique "flag" shaped lot and is one of the most southerly located improved properties in the area. Although the 20' wide flagstrip in the western portion of the property provides street frontage to Old Montauk Highway, the residence obtains its physical access from a serpentine driveway that spans two separate properties on the east side of the lot. The existing sanitary system is located to the west of the swimming pool and is proposed to be abandoned as per Suffolk County Department of Health Services (SCDHS) requirements. A water supply well on the north side of the residence is proposed to be abandoned and public water is proposed to service the new residence.

3. The unique setback and NRSP jurisdictional parameters within this area are attributed in § 255-4-40C to the presence of a "steep and predominantly vegetated bluff rising immediately from the base of the ocean beach." Undisturbed land within this section of shoreline is frequently very steeply sloped and the bluff face often has an indistinct crest located close to or beyond the northern lot boundary. NRSP review by the Zoning Board over the years has generally sought to locate improvements landward of the bluff crest where possible and to retain the natural bluff contours and vegetation to the extent practical. Remnants of the undisturbed slopes on the property remain to the east and north of the house where the elevations increase from 40' above sea level near the top of the driveway retaining wall to about 70' parallel to the northern lot line. The elevations continue to ascend north of the property to elevations averaging 105' above sea level adjacent to Old Montauk Highway. Barrier dunes located seaward of the coastal bluff crest along this section of shoreline tend to be ephemeral, low elevation primary dunes that become reduced in size or eliminated in conjunction with severe storms.

4. The application proposes to reconstruct a new residence in the same general footprint as the existing residence. Excluding the proposed basement, the new residence is proposed to have a lesser square footage (2,554 sq. ft.) than the existing structure (2,983 sq. ft.) although 705 sq. ft. of the existing structure consists of crawl space. The floor of the basement is proposed at an elevation of 32' above sea level and it appears that the basement of the new residence will be constructed at the elevation of the lowest floor of the existing residence. No changes have been proposed to the detached garage and the new residence is proposed reduce building coverage by 187 sq. feet. A concrete ramp on the west side of the property is proposed to be removed and replaced with bluestone steps set in grade. The proposed water supply line will be installed by underground directional drilling.

5. The Board finds that granting the requested variances does not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The existing footprint will remain the same. The new residence will not be visible from the roadway and will be more aesthetically pleasing to the neighborhood as the existing residence has serious structural issues. No affected property owners spoke against the instant application at the public hearing or submitted letters in opposition to the Zoning Board.

6. The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested area variances. Due to the severe topography of the subject parcel, it is not possible to locate the residence to a conforming location. The new residence will be situated within the existing footprint of the current residence and the south deck will be within the same footprint as the existing deck while the proposed stone patio will be located directly under and within the footprint of the south deck.

7. The Board finds that although the requested variances may be considered substantial, they are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the area variances. The proposed new structures have been designed to fit very closely within the existing footprint of the current structures to avoid further clearing or grading of the subject parcel. Moreover, the proposed new residence will be modest and is not expected to interfere with the enjoyment of neighboring parcels.

8. The Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The proposed project may actually improve the environmental conditions on the parcel as the applicant will replace the existing dwelling (that has severe structural issues) with a more aesthetically pleasing and energy-efficient home. The existing cesspool will be replaced by a modern septic system that is in compliance with current Suffolk County Department of Health Services (SCDHS) standards and located further away from tidal wetlands and bluff. The new residence will be connected to public water. The existing concrete ramp will be removed.

9. The Board finds that the need for the variances is self-created. The Board finds however, that although the need for the requested variances is self-created, this need, although relevant to the Board's decision does not preclude the granting of the requested variances. Town Law §267-b(3)(b)(5).

10. The Zoning Board finds the nature of the proposed use will be in harmony with and will promote the general purposes of the Town of East Hampton Zoning Law as described by § 255-1-11 of the Town Code. Specifically, the proposed project will improve the

environmental conditions on the subject parcel by upgrading the sanitary system, removing impervious surfaces, installing drywells to capture runoff and construction a more stable residence.

11. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The total lot coverage will be reduced from 8,806 sq. ft. to 8,328 sq. ft., well below the 15,178 sq. ft. permitted for the subject parcel.

12. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties as no impact to adjacent properties is anticipated from the construction of the proposed project. The proposed project is relatively modest and is expected to improve the conditions of the neighborhood by upgrading the sanitary system, replacing the structurally compromised residence while maintaining the same footprint and removing the existing concrete beach access.

13. The Board finds that adequate provision can and will be made for the collection and disposal of stormwater runoff, as the Board will require that all roof and outdoor shower runoff be directed by leaders and gutters into subsurface drywells.

14. The Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features. No detriment to the bluff toe or coastal wetlands are expected as the new structures will be re-constructed virtually within their existing footprints. No further grading of the parcel is required to complete the proposed project and the parcel will be revegetated.

15. The Board finds that the benefit to the applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety and welfare of the neighborhood and the Town as a whole.

G. DISPOSITION OF APPLICATION

For the reasons set forth herein, the Board makes the following determination with respect to the application:

1. RELIEF OR APPROVAL GRANTED:

A Natural Resources Special Permit (NRSP) pursuant to ?255-4-20 and variances from ? 255-4-40C (Coastal setbacks) of the Town Code are granted for the proposed project. Variances of 70? and 75? are granted to construct the residence and decking 55? and 49.6? respectively from the bluff toe where a 125? setback is required. The sanitary system has been proposed more than 200? from wetlands.

2. DESCRIPTION OF WORK APPROVED:

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.

H. CONDITIONS OF APPROVAL

Grant of the specified variances is specifically conditioned upon compliance with the conditions set forth in this section of the determination. All improvements shall be made, built, or installed in accordance with the survey and plans described below.

1. APPROVED SURVEY: Prepared by George Walbridge Surveyors, P.C. survey dated last revised September 20, 2017, and stamped received by the Zoning Board on September 22, 2017.
2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by Pamela Glazer, Architect (9 pages) dated last revised September 21, 2017, and stamped received by the Zoning Board on September 22, 2017.
3. APPROVED CONSTRUCTION PROTOCOL: Prepared by Pamela Glazer, Architect, dated October 2, 2017, and stamped received by the Zoning Board on October 5, 2017
4. APPROVED SANITARY SYSTEM PLAN & DETAILS: Prepared by S.L. Maresca Associates, dated last revised November 9, 2016, and stamped received by the Zoning Board on March 22, 2017.
5. APPROVED REVEGETATION PLAN: Prepared by Pamela Glazer Architect, dated September 12, 2017, and stamped received by the Zoning Board on September 14, 2017.

6. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

a. Project limiting fencing consisting of 4' plastic safety or snow fence shall be erected concurrent with the clearing boundary approved by the Board to limit the clearing of vegetation and land disturbance. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged, deteriorated or upon request of the Building Department or a delegate of the Zoning Board of Appeals.

b. Sediment control fencing consisting of staked straw bales or silt mesh fencing shall be erected along the southern limits of approved construction activities to contain unconsolidated sediments. Fencing shall also be installed along the both sides of the access road, except portions where there is a retaining wall. The fencing shall be installed and maintained in accordance with the New York State Standards and Specifications for Erosion and Sediment Control manual prior to the commencement and for the duration of construction activities. The fencing shall be repaired or replaced as necessary to maintain proper function.

c. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing for proper installation.

d. The clearing of vegetation and the filling, grading or re-contouring of the property shall be strictly limited to the boundaries established by the Board and any proposed grading depicted on the approved survey or site plan.

e. The sanitary system shall be relocated to the specifications indicated on the approved sanitary system site plan referenced above, under the direction of the Suffolk County Department of Health Services.

f. The approved revegetation plan referenced above shall be implemented and inspected by the Board or their delegate prior to the issuance of a Certificate of Occupancy.

g. The residence shall be furnished with gutters and leaders to direct stormwater from roofs into one or more catchment basins. Said catchment basin or basins should have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin should be made available for inspection by the building inspector prior to backfill.

- h. All structures shall be situated at least 2' above the seasonal high groundwater table.
- i. The walkway to the beach shall be maintained no wider than 4' and the concrete ramp shall be removed.
- j. The driveway composition and any drainage structures shall be reviewed and approved by the Town Engineer prior to the issuance of a building permit. The completed driveway and drainage structures shall be inspected by the Town Engineer prior to the issuance of a Certificate of Occupancy.
- k. The applicant shall prepare and submit a declaration of covenants and restrictions, incorporating the provisions of paragraphs (g) and (h) of this determination in standard form acceptable to and approved by Counsel to this Board. The said declaration shall provide for its modification or termination only upon the approval of the East Hampton Town Zoning Board of Appeals, after a public hearing held on ten (10) days' notice. Said declaration, after approval by counsel, shall be recorded at the Office of the Suffolk County Clerk.
- l. A permit or statement of non-jurisdiction shall be obtained from the New York State Department of Environmental Conservation (NYSDEC) prior to the issuance of a building permit for this project.
- m. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.
- n. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of issuance of a building permit.
- o. A copy of the Natural Resources Special Permit, the approved survey, and the approved building plans shall be available on the parcel at all times.

I. VALIDITY OF APPROVAL

If any condition of this determination is not met, or is not met within the prescribed time period, all approvals, permits, or authorizations granted hereby shall be deemed void and of no effect.

ALL CONCUR:

JOHN P. WHELAN, Chairman

CATE ROGERS, Vice-Chair

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Member

Dated: November 14, 2017

cc: Building Department
Planning Department
Richard E. Whalen, Esq., Agent for Applicant

C. Hoeh

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

MICHAEL HOEH

SCTM # 300-23-01-23

HEARING DATE: September 26, 2017

PRESENT: JOHN P. WHELAN, Chair
 CATE ROGERS, Vice-Chair
 DAVID LYS, Member
 ROY DALENE, Member
 THERESA BERGER, Member

ALSO PRESENT: ELIZABETH L. BALDWIN, ESQ., Counsel to the Board
 DENISE SAVARESE, Legislative Secretary
 BRIAN FRANK, Planning Department
 RICHARD A. HAMMER, ESQ., Agent for Applicant
 SEAN WEBB, Architect for Applicant

FINDINGS OF FACT AND DETERMINATION OF THE BOARD

The findings of fact and determination made herein are based upon the application, the evidence received at the public hearing before the Board, all documents contained in the Board's files and which were received prior to the close of the hearing, and the inspection and field report made by Vice Chair Rogers of this Board.

A. PROJECT DESCRIPTION:

1. PURPOSE OF APPLICATION:

To demolish an existing one story residence and construct a new 2,870 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.

2. RELIEF OR APPROVAL 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 are requested, and any other relief necessary. The following variances are required: (1) and (2) variances of 18? & 22? are required to allow the residence and decking to be constructed 82? and 76? from wetlands where a 100? setback is required; and, (3) a 4? variance is required to install the sanitary system 146? from wetlands where a 150? setback is required.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 20,924 sq. ft. (total)
2. STREET LOCATION: 26 Bay Inlet Road
3. CONTIGUOUS WATER BODIES: Lion Head Pond West
4. HAMLET OR GEOGRAPHIC AREA: Springs
5. FILED MAP NAME: Lion Head Beach
6. FILED MAP NUMBER: 3451
7. DATE OF MAP FILING: November 6, 1961
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: 51
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-23-01-23

C. ZONING INFORMATION

1. ZONING DISTRICT: B Residence
2. ZONING OVERLAY DISTRICT: N/A

D. SEQRA DETERMINATION

1. SEQRA CLASSIFICATION: Type II
2. LEAD AGENCY: N/A
3. DETERMINATION OF SIGNIFICANCE: N/A
4. DATE OF DETERMINATION: N/A

E. STANDARDS FOR BOARD REVIEW

1. In order to be eligible for issuance of the requested Natural Resources Special Permit, applicant must show that the proposed action is compatible with the purposes of ?? 255-1-11 and 255-4-10 of the East Hampton Town Code and satisfies the criteria set forth in ?? 255-5-40 and 255-5-51 (Natural Resources Special Permit) of the Town Code.

2. In order for this Board to grant applicant the requested area variance, applicant must demonstrate that the requirements of Town Law ? 267-b 3 have been met. The Board is to ?take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.? The Town Law also directs the Board, in granting area variances, to ?grant the minimum variance that it shall deem necessary and adequate and at the same time

preserve and protect the character of the neighborhood and the health, safety and welfare of the community.?

3. The standards set forth in Town Code ? 255-8-50 (D) paraphrase the requirements language of Town Law ? 267-b 3:

a) the benefit to applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety, and welfare of the neighborhood or the Town as a whole; and

b) the variances sought are the minimum variances necessary and adequate to alleviate the difficulty causing applicant to request an area variance, while at the same time preserving and protecting the character of the neighborhood and the general health, safety, and welfare of the Town as a whole.

4. The Board finds that grant of the instant application will be consistent with the requirements of both Town Law ? 267-b and Town Code ? 255-8-50.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The subject premises are improved with an approximately 1,700 sq. ft. one story residence (including an attached garage) initially constructed in the early 1960's. The property was the subject of Zoning Board review in 1985 when the Board granted a Natural Resources Special Permit (NRSP) to construct a 240 sq. ft. addition and 288 sq. ft. deck onto the residence. The most recent Certificate of Occupancy for the improvements was issued in 1986. The proposed redevelopment of the property is depicted on the Barylski Land Surveying survey of the property dated last revised June 29, 2017. The corresponding floor and elevation plans were prepared by Form Architecture (9 pages), dated last revised May 1, 2017 and stamped received by the Board on May 3, 2017. Public water has been proposed to serve the new residence. The property appears to have been acquired by the current owner in December 2014.

2. The existing residence is non-conforming to all of the Town's minimum wetland setbacks. The proposed residence and decking will be located landward of the existing residence and decking.

3. The wetlands on the survey consist of the shoreline vegetation and surface waters of a coastal pond informally referred to as Lion Head Pond west, one of two coastal ponds located to the west of and suspected of being formerly connected to Hog Creek. The wetlands have been designated as Class I wetlands, the highest quality rating, by the NYSDEC and provide many, if not all of the benefits associated with coastal ponds including the provision of habitat for wetland dependent species of plants and animals, the retention of floodwaters prior to surface and groundwater recharge, and aesthetic benefits that contribute to the surrounding property values. A 1993 report from the Natural Resources Department identified these ponds as important nesting and foraging ground for waterfowl and wading birds. Ponds and wetlands like these are especially sensitive to the effects of pollution due to their lack of flushing, limited circulation and shallow depths.

4. Applicant is proposing 2,500 sq. ft. of revegetation that will result in the property, after revegetation, becoming compliant with the Town's clearing restrictions. Another significant environmental improvement to the property, as a result of this application, is the abandonment of the existing cesspool, located 55' from the wetlands, and the installation of a new sanitary system in the eastern portion of the property. The new sanitary system will be located an additional 90' farther from the wetlands at 146'. Applicant revised the originally proposed project to reduce the size of the proposed residence from 3,408 sq. ft. to a 2,870 sq. ft. residence. Recent test hole data provided in conjunction with nearby properties have used groundwater elevations, based on test hole data, of 2' or greater above sea level as the design criteria for structure and sanitary leaching pool separation

requirements. A note on the survey proposes a 3' separation to the groundwater table as required by the SCDHS regulations.

5. The majority of the Board finds that granting the requested variances will not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The size of the proposed residence is similar to other sized residences in the neighborhood.

6. The majority of the Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested area variances. This property contains an existing residence that is entirely nonconforming to wetland setbacks. Moreover, the existing sanitary system, which is only a leaching ring and located 50' from the pond, will be removed and a new sanitary system will be located as far from the wetlands as possible on the lot. The new residence and decking is proposed farther landward than the existing residence and an extensive revegetation will offset any impacts of the new residence.

7. The majority of the Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Applicant is installing a new sanitary system 146' from the wetlands where an existing leaching ring exists 50' from the pond. The new sanitary system, along with the 2,500 sq. ft. of revegetation along the pond will offset the increased size of the residence on the property.

8. The majority of the Board finds that although the requested variances may be considered substantial, they are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the area variances. The applicant is proposing to construct the new residence farther back from the pond than the existing residence. Moreover, the majority of the Board notes that the existing residence has 854 sq. ft. of gross floor area within the required wetland setback. The proposed project will reduce the amount of nonconforming gross floor area by 38% or to 534 sq. ft.

9. The majority of the Board finds that the need for the variances is self-created. The Board finds however, that although the need for the requested variances is self-created, this need, although relevant to the Board's decision does not preclude the granting of the requested variances. Town Law §267-b(3)(b)(5).

10. The majority of the Board finds that the benefit to the applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety and welfare of the neighborhood and the Town as a whole.

11. The majority of the Zoning Board finds the nature of the proposed use will be in harmony with and will promote the general purposes of the Town of East Hampton Zoning Law as described by ? 255-1-11 of the Town Code.

12. The majority of the Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. Applicant has proposed a project that conforms to all dimensional setbacks and is increasing the setbacks from the natural features from what currently exists on the property.

13. The majority of the Board finds that adequate provision can and will be made for the collection and disposal of storm water runoff, as the Board will require that all roof runoff be directed by leaders and gutters into subsurface drywells.

14. The majority of the Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties as no impact to adjacent properties is anticipated from the construction of the proposed project.

15. The majority of the Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features. An extensive revegetation that will provide a buffer to the pond, along with the new sanitary system located as far back from the pond as possible, will offset the impacts to the pond from redevelopment of this property.

16. The majority of the Board finds that the proposed project, constructed in accordance with the proposed mitigation measures set forth below, promote the public interest in adequately preserving the tidal wetlands located on the subject parcel.

G. DISPOSITION OF APPLICATION

For the reasons set forth herein, the Board makes the following determination with respect to the application:

1. RELIEF OR APPROVAL GRANTED:

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 are granted. The following variances are granted: (1) and (2) variances of 18? & 22? are granted to allow the residence and decking to be constructed 82? and 78? from wetlands where a 100? setback is required; and, (3) a 4? variance is granted to install the sanitary system 146? from wetlands where a 150? setback is required.

2. DESCRIPTION OF WORK APPROVED:

To demolish an existing one story residence and construct a new 2,870 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.

H. CONDITIONS OF APPROVAL

Grant of the specified variances is specifically conditioned upon compliance with the conditions set forth in this section of the determination. All improvements shall be made, built, or installed in accordance with the survey and plans described below.

1. APPROVED SURVEY: Prepared by Barylski Land Surveying, survey dated revised June 29, 2017, and stamped received by the Zoning Board on July 19, 2017.
2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by Form Architecture (9 pages), dated last revised May 1, 2017 and stamped received by the Zoning Board on May 3, 2017.
3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:
 - a. Project limiting fencing with staked straw bales shall be erected to limit land disturbance and prevent sedimentation of the wetlands in the location depicted on the Planning department sketch to be submitted to the Board by the Planning Department prior to the commencement and for the duration of construction activities.
 - b. The Board, or their delegate, prior to the issuance of a building permit for demolition and new construction, shall inspect the project limiting fencing and straw bales for adequacy.

- c. All structures shall be situated at least 2' above the seasonal high groundwater table.
- d. All structures shall be furnished with gutters and leaders to direct stormwater from roofs into one or more catchment basins. Said catchment basin or basins shall have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin shall be made available for inspection by the building inspector prior to backfill.
- e. An Article 25 Tidal Wetland permit or statement of non-jurisdiction shall be obtained from the New York State Department of Environmental Conservation (NYSDEC) prior to the issuance of a building permit for this project.
- f. Applicant shall revegetate in accordance with an approved revegetation plan. The revegetation plan shall depict at least 2,500 sq. ft. of revegetation as depicted on the approved survey above. Said plan shall be submitted to the Zoning Board for approval prior to issuance of a building permit. The Planning Department shall inspect the revegetation for adequacy, prior to issuance of a Certificate of Occupancy.
- g. The swimming pool shall utilize a chlorine reducing sanitation system and all pool water should be discharged into a drywell located at least 100' from the wetlands located on the approved survey referenced above.
- h. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.
- i. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of issuance of a building permit.
- j. A copy of the Natural Resources Special Permit, the approved survey, and the approved building plans shall be available on the parcel at all times.

I. VALIDITY OF APPROVAL

If any condition of this determination is not met, or is not met within the prescribed time period, all approvals, permits, or authorizations granted hereby shall be deemed void and of no effect.

CONCURRING:

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Member

DISSENTING:

JOHN P. WHELAN, Chair

CATE ROGERS, Vice-Chair

Dated: November 14, 2017

cc: Building Department
Planning Department
Richard A. Hammer, Esq., Agent for Applicant

D. Haak

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

CHRISTOPHER HAAK

SCTM # 300-90-03-13

HEARING DATE: September 26, 2017

PRESENT: JOHN P. WHELAN, Chair
 CATE ROGERS, Vice-Chair
 DAVID LYS, Member
 ROY DALENE, Member
 THERESA BERGER, Member

ALSO PRESENT:

ELIZABETH L. BALDWIN, ESQ., Counsel to the Board
DENISE SAVARESE, Legislative Secretary
TYLER BORSACK, Planning Department
DENISE R. SCHOEN, ESQ., Agent for Applicant
ANDREW PENNACCHIA, Architect for Applicant
TREFNY DIX, Neighboring Property Owner
BENGT HOKENSON, Neighboring Property Owner
BARRY ADLER, Neighboring Property Owner
CHRISTOPHER HAAK, Applicant

FINDINGS OF FACT AND DETERMINATION OF THE BOARD

The findings of fact and determination made herein are based upon the application, the evidence received at the public hearing before the Board, all documents contained in the Board's files and which were received prior to the close of the hearing, and the inspection and field report made by Member Dalene of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION:

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.

2. RELIEF OR APPROVAL SOUGHT:

Six (6) 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 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.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 29,553 sq. ft. (total)
2. STREET LOCATION: 81 Northwest Landing Road
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: East Hampton
5. FILED MAP NAME: N/A
6. FILED MAP NUMBER: N/A
7. DATE OF MAP FILING: N/A

- 8. BLOCK NUMBER IN FILED MAP: N/A
- 9. LOT NUMBER IN FILED MAP: N/A
- 10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-90-3-13

C. ZONING INFORMATION

- 1. ZONING DISTRICT: A2 Residence
- 2. ZONING OVERLAY DISTRICT: Harbor Protection Overlay District

D. SEQRA DETERMINATION

- 1. SEQRA CLASSIFICATION: Type II
- 2. LEAD AGENCY: N/A
- 3. DETERMINATION OF SIGNIFICANCE: N/A
- 4. DATE OF DETERMINATION: N/A

E. STANDARDS FOR BOARD REVIEW

1. In order to be eligible for issuance of the requested Natural Resources Special Permit, applicant must show that the proposed action is compatible with the purposes of ?? 255-1-11 and 255-4-10 of the East Hampton Town Code and satisfies the criteria set forth in ?? 255-5-40 and 255-5-51 (Natural Resources Special Permit) of the Town Code.

2. In order for this Board to grant applicant the requested area variance, applicant must demonstrate that the requirements of Town Law ? 267-b 3 have been met. The Board is to ?take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance

is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.? The Town Law also directs the Board, in granting area variances, to ?grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.?

3. The standards set forth in Town Code ? 255-8-50 (D) paraphrase the requirements language of Town Law ? 267-b 3:

a) the benefit to applicant from grant of the requested variance outweighs any detriment which grant of the variance will cause to the general health, safety, and welfare of the neighborhood or the Town as a whole; and

b) the variances sought are the minimum variance necessary and adequate to alleviate the difficulty causing applicant to request an area variance, while at the same time preserving and protecting the character of the neighborhood and the general health, safety, and welfare of the Town as a whole.

4. The Board finds that grant of the instant application will be consistent with the requirements of both Town Law ? 267-b and Town Code ? 255-8-50.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The property is currently improved with an approximately 743 sq. ft. one story residence with patio and approximately 70 sq. ft. shed. The most recent C.O. was issued on the property in 1967 for a ?1-story, frame, 1-family residence, erected before the adoption of zoning?. All of the existing and proposed structures can be seen on the Saskas Surveying Company survey dated revised September 22, 2017, and stamped received by the Zoning Board on September 22, 2017. The corresponding construction plans were prepared by Modern Green Homes, dated last revised September 13, 2017, and stamped received by the Zoning Board on September 22, 2017. The Advanced Wastewater System (sanitary plan) was prepared by TF Engineering, dated December 19, 2016, and stamped received by the Zoning Board on April 11, 2017. This property has not appeared before the Zoning Board previously.

2. The property is located within the Harbor Protection Overlay District (HPOD). The wetlands located on the property consist of a high quality tupelo swamp, a large portion of which is often very wet with a high groundwater table and which contains standing water at times. These wetlands are a direct conduit to an extensive tidal marsh that is an important tributary to Northwest Creek. Northwest Creek is a New York State Significant Fish and Coastal Wildlife Habitat and part of the Peconic Estuary Critical Environmental Area. Both the tidal and freshwater wetlands can be expected to provide all of the benefits typically associated with high quality wetlands. These benefits include the provision of high quality plant and wildlife habitats for wetland dependent species, the attenuation of floodwaters, the removal of pollutants prior to groundwater and surface water recharge, and opportunities for scientific research, education and aesthetic appreciation. Inter tidal salt marshes are especially important habitat for commercially important finfish and shellfish in addition to nesting, foraging and over wintering areas for waterfowl and wading birds.

3. The proposed project is to demolish the existing one story residence with patio, shed, driveway, and sanitary system and to construct a new 1,556 sq. ft. two story residence (897 sq. ft. 1st floor, 659 sq. ft. second floor), with a 506 sq. ft. first story deck, 236 sq. ft. patio, 203 sq. ft. second story deck, 192 sq. ft. shed and new sanitary system within setbacks to wetlands and the shed requiring a front yard lot line setback. The applicants are offering a scenic easement which covers most of the wetlands on the property. The applicants are also proposing to revegetate approximately 1,634 sq. ft. of vegetation along the clearing edge on the southern side of the project. This also includes the removal of approximately 230 sq. ft. of bamboo from the western of the property. The applicants are proposing an alternative sanitary system design utilizing the Hydro-Action system, recently approved by the SCDHS. The sanitary design calls for an approximately 6' high retaining wall to raise the elevation of the grade to 9.8' to create the 4' separation to groundwater that is required for new sanitary systems in HPOD. The applicants are also proposing to remove an existing small, 70 sq. ft., shed approximately 14' from the wetlands and construct a new 192 sq. ft. shed 28.8' from the wetlands, which also requires a front yard variance in order to increase the setback from the wetlands.

4. The Board finds that granting the requested variances will not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The design of the proposed residence is in conformance with other homes within this neighborhood. The proposed new residence is modest compared with other properties and is not expected to interfere with the enjoyment of neighboring parcels. In fact, many neighboring property owners submitted letters in support of the proposed project.

5. The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested area variances. The parcel is highly constrained due the presence of wetlands and the proposed construction will be completed in the best locations possible. The sanitary system appears to be located in one of the most conforming locations available on the property.

6. The Board finds that although the requested variances may be considered substantial, they are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the area variances. The Board finds that the sanitary and residential location, as proposed, is the maximum distance from the wetland that is practicable. The proposed total lot coverage of 3,245 sq. ft. (18%) will remain well below the permitted lot coverage of 8,873 sq. ft. (50%).

7. The Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The applicant will upgrade the existing sanitary system to be in compliance with current Suffolk County Department of Health Services (SCDHS), benefitting the wetlands. The upgraded septic system will exceed the 4' separation from groundwater as set forth in the Harbor Protection Overlay regulations. The applicant will establish a large scenic easement over the parcel and revegetate the parcel to protect the wetlands by attenuating runoff from the property and helping to intercept non-point pollutants such as sediments, suspended and dissolved solids, nutrients associated with fertilizers and other chemical compounds that adversely affect the water quality. The root systems of the vegetation will stabilize the soil, minimizing the risk of erosion from precipitation and help to retain and dissipate water during periods of flooding.

8. The Board finds that the need for the variances is self-created. The Board finds however, that although the need for the requested variances is self-created, this need, although relevant to the Board's decision does not preclude the granting of the requested variances. Town Law §267-b(3)(b)(5).

9. The Zoning Board finds the nature of the proposed use will be in harmony with and will promote the general purposes of the Town of East Hampton Zoning Law as described by § 255-1-11 of the Town Code.

10. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The total lot coverage will be 3,245 sq. ft., well below the 8,873 sq. ft. total lot coverage allowed.

11. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties as no impact to adjacent properties is anticipated from the construction of the proposed project. The proposed residence is modest and will not cause a disturbance to neighboring parcels.

12. The Board finds that adequate provision can and will be made for the collection and disposal of stormwater runoff, as the Board will require that all roof runoff from the residence and shed be directed by leaders and gutters into subsurface drywells.

13. The Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features. The environmental conditions on the parcel are expected to improve as the applicant will upgrade the sanitary system, revegetate the parcel and will establish a scenic easement to protect the wetland areas.

14. The Board finds that the site of the proposed residence is a suitable one for such a use in the Town as the residence will be in conformance with other homes in this area of the Town.

15. The Board finds that the benefit to the applicant from grant of the requested variances outweighs any detriment which grant of the variances will cause to the general health, safety and welfare of the neighborhood and the Town as a whole.

G. DISPOSITION OF APPLICATION

For the reasons set forth herein, the Board makes the following determination with respect to the application:

1. RELIEF OR APPROVAL GRANTED:

Five (5) variances and a Natural Resources Special Permit pursuant to ?255-4-20 of the East Hampton Town Code are granted. Variances of 61.1?, 71.1? and 67.4? from ?255-4-30 of the Town Code are granted to construct the residence, decking, and shed 38.9?, 28.9? and 32.6?, respectively, from wetlands where 100? setbacks are required. One variance of 7.3? is granted to construct the shed 22.7? 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 granted to construct the new sanitary system 36.4? from wetlands where a 200? setback is required.

2. DESCRIPTION OF WORK APPROVED:

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.

H. CONDITIONS OF APPROVAL

Grant of the specified variances is specifically conditioned upon compliance with the conditions set forth in this section of the determination. All improvements shall be made, built, or installed in accordance with the survey and plans described below.

1. APPROVED SURVEY: Prepared by Saskas Surveying Company, P.C. survey dated last revised September 22, 2017, and stamped received by the Zoning Board on September 22, 2017.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: Construction plans prepared by Modern Green Home, dated last revised September 13, 2017, and stamped received by the Board September 22, 2017. Advanced Wastewater System (sanitary plan) was prepared by

TF Engineering, dated December 19, 2016, and stamped received by the Zoning Board on April 11, 2017.

3. APPROVED PLANNING DEPARTMENT SKETCH: Dated June 7, 2017, and adapted from the Saskas Surveying Company, P.C. survey dated December 29, 2016.

4. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

a. Sediment control fencing consisting of staked straw bales or silt mesh fencing shall be erected in the location depicted on the attached Planning Department sketch approved above to prevent sedimentation of the wetlands. The fencing shall be installed and maintained in accordance with the New York State Standards and Specifications for Erosion and Sediment Control manual prior to the commencement and for the duration of construction activities. The fencing shall be repaired or replaced as necessary to maintain proper function.

b. The Board, or their delegate, prior to the issuance of a building permit, shall inspect the project limiting fencing and straw bales for adequacy.

c. A revegetation plan that indicates the locations, species, size and spacing shall be submitted to the Board for approval prior to the issuance of a building permit. The plan shall be implemented and inspected by the Board or their delegate prior to the issuance of a Certificate of Occupancy.

d. A scenic easement shall be established in the location depicted on the Planning Department sketch approved above. The easement, along with the approved survey depicting the location of scenic easement shall be submitted in acceptable form to the Zoning Board of Appeals Office for approval by Counsel to this Board, prior to the issuance of a Building Permit. The Town Board must accept and the applicant must file with the Suffolk County Clerk's Office the scenic easement. The original easement shall be returned the East Hampton Town Clerk's Office. Proof of filing must be presented to the Zoning Board before a Certificate of Occupancy can be issued. The original scenic easement, with proof of recordation shown thereon, shall be returned to the Town Clerk's office.

e. The residence and shed shall be furnished with gutters and leaders to direct stormwater from roofs into one or more catchment basins. Said catchment basin or basins should have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin should be made available for inspection by the building inspector prior to backfill.

f. All structures shall be situated at least 2' above the seasonal high groundwater table.

g. The driveway shall be composed of only of a clean, local, water-pervious quartz gravel surface.

h. The fence depicted in the proposed scenic easement area shall be removed prior to issuance of a Certificate of Occupancy.

i. The applicant shall prepare and submit a declaration of covenants and restrictions, incorporating the provisions of paragraphs (e), (f) and (g) of this determination in standard form acceptable to and approved by Counsel to this Board. The said declaration shall provide for its modification or termination only upon the approval of the East Hampton Town Zoning Board of Appeals, after a public hearing held on ten (10) days' notice. Said declaration, after approval by counsel, shall be recorded at the Office of the Suffolk County Clerk. Copies of the same, with proof of recordation shown thereon, shall be returned to the Town Clerk prior to the issuance of a building permit

j. An Article 24 Freshwater Wetland permit or statement of non-jurisdiction should be obtained from the New York State Department of Environmental Conservation (NYSDEC) prior to the issuance of a building permit for this project.

k. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.

I. VALIDITY OF APPROVAL

If any condition of this determination is not met, or is not met within the prescribed time period, all approvals, permits, or authorizations granted hereby shall be deemed void and of no effect.

CONCURRING:

JOHN P. WHELAN, Chairman

CATE ROGERS, Vice-Chair

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Member

DISSENTING:

Dated: November 14, 2017

cc: Building Department
Planning Department
Denise R. Schoen, Esq., Agent for Applicant