



**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 October 10,  
2017  
East Hampton, New York**

**I. CALL TO ORDER**

12:00 AM Meeting called to order on October 10, 2017 at Town Hall Meeting Room, 159 Pantigo Road, East Hampton, NY.

<b>Attendee Name</b>	<b>Present</b>	<b>Absent</b>	<b>Late</b>	<b>Arrived</b>
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. Shipwreck 71 LLC**

TIME: 6:30:00 PM APPLICANT: Shipwreck 71 LLC

SIZE/LOCATION: 61,992 sq. ft., 71 Shipwreck Dr., Map No. 7001; Map of Ocean Estates Lot 8 & 9,

Amagansett (300-152-02-832)

DESCRIPTION: To demolish the existing garage and construct a 2,150 sq. ft. two story addition with a 292 sq. ft. second floor connector, demolish the existing pool and construct an 800 sq. ft. pool, 2,419 sq. ft. of pool patio that includes a spa, kitchen bar and stone path, and install a new sanitary system on a parcel of land with beach vegetation.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to 255-4-20 of the Town Code.

ZONING DISTRICT: A2 Residence, Zone X Flood Zone

SEQRA CLASS: Type II

**i. Technical Analysis Memorandum**

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Lisa D'Andrea

Date completed: May 22, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 71 Shipwreck Dr. Subdivision

School District: Amagansett Special Permit

Zoning District: A2 Residence Zone Change

Overlay District Variance

Tax Map Number: 300-152-02-8.32 Natural Resources Special Permit: XX

Applicant: Shipwreck 71 LLC

c/o Steven R. Connors

1522 Route 17A

Warwick, N.Y. 10990

Telephone: 631-235-3545

FEMA ZONE: Flood Zone X, AE 10, VE 17

Soil Type: Dune land (Du)

Map of Property: Map No. 7001; Map of Ocean Estates Lot 8 & 9

Size of Parcel: 61,992 sq. ft.

Project Description: To demolish the existing garage and construct a 2,150 sq. ft. two story addition with a 292 sq. ft. second floor connector, demolish the existing pool and construct an 800 sq. ft. pool, 2,419 sq. ft. of pool patio that includes a spa, kitchen bar and stone path, and install a new sanitary system on a parcel of land with beach vegetation.

Relief Requested: A Natural Resources Special Permit pursuant to ? 255-4-20 of the Town Code.

#### Property and History:

In 1998 this parcel was vacant pristine dune land with protected beach vegetation. In a Zoning Board determination filed August 26, 1998 the application as proposed was denied. The Board decided the size of the residence, the location of the accessory structures and the 15,700 sq. ft. of clearing of beach vegetation that would have been required for the project did not meet NRSP standards.

On March 26, 1999 an Administrative NRSP was issued for a 4,808 sq. ft. two story residence with a 300 sq. ft. screened in porch, 1,148 sq. ft. of deck, 325 sq. ft. of covered deck, a 1,254 sq. ft. deck and a 192 sq. ft. screened in porch. A building permit for the project was issued May 19, 1999. October 7, 1999 a building permit was issued for a 600 sq. ft. one story detached garage. It appears a two story garage was constructed that was over the maximum square footage allowed for an accessory structure. It appears that in order to obtain a CO the garage had to be legalized. The applicant applied for an artist studio to be located on the second story of the detached garage. A Town Board resolution approved the conversion of 576 sq. ft. of a second story garage into an artist studio. The only Certificate of Occupancy (CO) that has been issued for this property was issued May 2, 2001 for the residence and decks and the detached garage with artist studio. There was no pool on the property at that time. After the CO was issued a building permit for a 480 sq. ft. pool was issued May 21, 2001. It appears a CO was never obtained for the pool because a sod lawn was planted around the pool contrary to the conditions set forth in the NRSP.

According to Town records, legal action was taken in regards to conditions of the 1999 Administrative NRSP.

In 2006 the current owner applied to delete permit conditions III. 3 & 4 of the Administrative Natural Resources Special Permit issued March 26, 1999. A detailed assessment of the applicant's request was written by the Planning Department outlining why the Planning Department did not support the deletion of these conditions. (A copy of the assessment will be sent to the Board under another cover). The application was withdrawn.

The property was acquired by the current owner and applicant on March 4, 2009. The applicant should be well aware of the issues that have, as yet, been unresolved and that an updated CO has not been issued.

A memo dated March 3, 2016 was sent by the Planning Department to the Chief Building Inspector stating that Special Conditions 1., 3., and 4. of the 1999 Administrative NRSP had not been met and a CO should not be issued until the conditions of the permit have been met.

All existing and proposed structures are depicted on a Saskas Surveying survey dated revised April 27, 2017 and received by the Board on May 9, 2017. The Guest and Garage

Wing Addition Building plans by Stephen R. Connors, Architect dated revised April 17, 2017 and were received by the Board on April 17, 2017.

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

The applicant is requesting a NRSP to demolish the detached garage and replace it with a two story addition with a connector to the main house. The applicant wants to demolish the existing pool and replace it with a larger 800 sq. ft. pool and approximately 2,419 sq. ft. of pool patio with a kitchen bar, spa and stone path. The new pool area will no longer have the turf lawn. Any of the previous lawn area around the pool that is not slated to be pool patio is proposed to be planted with indigenous shrubs and sea grasses. No specific planting plan has been submitted.

This is an aggressive development of the property. The Gross Floor Area (GFA) will be 5 sq. ft. below the maximum allowed. Although the proposed addition will not require any clearing of beach vegetation since that location on the property is already cleared and landscaped, the new sanitary system is proposed in an uncleared area and will require excavating into the dune land and disturbing the dune land habitat.

To re-iterate;

An Administrative NRSP was issued on March 26, 1999 to construct a residence, garage, pool and deck. Permit conditions III. 3 & 4 are as follows:

3. All areas disturbed by construction activities shall be revegetated with Cape American Beach Grass, planted on 12' centers, in staggered rows. The revegetation shall be implemented prior to the issuance of a Certificate of Occupancy for the premises.

4. The establishment of turf, sod or lawn shall be prohibited on the premises.

These permit conditions have never been met. Contrary to the conditions of the NRSP after the pool was constructed a sod lawn was established around the pool. This is not the only place on the property lawn has been established. In addition, many of the plantings around the house are non-native, ornamental plants. Some of the vegetation, most notably Autumn olive (*Elaeagnus umbellata*), that has been planted on the property is considered invasive and detrimental to dune land ecology.

For more than twenty years the Board has reviewed NRSP applications for clearing or the construction of structures on dune land containing "beach vegetation" as defined and protected by the Town Code. The Board has consistently required that any dune land

disturbed during the construction process be revegetated with American beach grass (*Ammophila breviligulata*) or native plants (approved by the Board) appropriate for dune land habitat. The Board has also consistently prohibited the establishment of lawn, sod or turf grass as a condition of the NRSP.

The clearing as depicted on the Saskas Surveying survey is not accurate. Much of the area denoted as uncleared has been substantially altered with the presence of non-native shrubs/trees including the invasive autumn olive.

The Town Code definition of clearing:

Clearing:

A. As applied to the act of clearing: the act of removing trees or any part thereof, brush, or other vegetation and/or groundcover from land, whether by any means, including but not limited to digging, scraping, cutting, brushhogging, bulldozing, burning, chemical removal or by any form of mechanical action. As used herein the term "groundcover" shall include naturally occurring understory vegetation (e.g. lowbush blueberry or huckleberry), as well as leaf litter and other detritus.

B. As applied to an area of land: all land which has been altered from its natural state by the removal of trees, brush, or other vegetation and/or groundcover including land which is lawn or from which groundcover has been removed. As used herein the term "natural state" shall mean and refer to the natural condition of land without substantial alteration by human activity.

That being said, the survey's calculations show the existing clearing as 20,305 sq. ft. and an additional 2,180 sq. ft. of clearing is proposed. In 1998 the Board considered the clearing of 15,700 sq. ft. to be too much for this property.

The Planning Department's opinion is that the applicant should first bring the property into compliance with the March 26, 1999 NRSP conditions. Ideally this should be done before the Board considers granting another NRSP. The applicant should document in a landscaping plan an accurate inventory of the size, spacing and species of the vegetation that has been established on the property. At the very least, the applicant should submit a plan for the removal of all turf lawn and topsoil, the removal of the autumn olive trees on the property and provide a plan for proposed revegetation of all areas disturbed by the removal. The revegetation plan should include only indigenous vegetation appropriate to the dune land habitat of Napeague and be approved by the Board prior to implementation. The Planning Department also recommends that a scenic easement be established over any substantial blocks of undisturbed dune land vegetation to facilitate the long term conservation of this protected natural feature.

## Recommended Project Conditions:

- a. Project limiting fencing consisting of 4' plastic safety or snow fence shall be erected in the location depicted on the attached Planning Department sketch dated May 18, 2017 adapted from the approved survey 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. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing for proper installation.
- c. The applicant should document in a landscaping plan an accurate inventory of the size, spacing and species of the vegetation that has been established on the property.
- d. The applicant should submit a plan for the removal of all turf lawn and topsoil, the removal of the autumn olive trees on the property and provide a plan for proposed revegetation of all areas disturbed by the removal. The revegetation plan should include only indigenous vegetation appropriate to the dune land habitat of Napeague and be approved by the Board prior to the issuance of a building permit.
- e. The Dune land soils excavated for the approved sanitary system should 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. A scenic easement shall be established in the location depicted on the attached Planning Department sketch dated May 18, 2017 adapted from the approved survey. 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.
- g. 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.
- h. 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.

- i. The addition 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.
- j. The establishment of turf, lawn, sod or ornamental vegetation should be prohibited.
- k. All structures should be situated at least 2' above the seasonal high groundwater table.
- l. The swimming pool should utilize a chlorine reducing sanitation system and all pool water should be discharged into a drywell.
- m. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.

**B. Zachary Mankes**

APPLICANT: Zachary Mankes

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

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

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

proposed addition 33 9.75 from the western front yard lot line where a 40 setback is required, and any other relief necessary.

ZONING DISTRICT: A Residence Zone X Flood Zone

SEQRA CLASS: Type II

**i. Technical Analysis Memorandum**

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Tyler Borsack

Date completed: June 23, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 28 Washington Drive Subdivision

School District: Montauk Special Permit

Zoning District: A Residence Zone Change

Overlay District: N/A Variance XX

Tax Map Number: 300-048-08-4 Natural Resources

Applicant: Zachary Mankes Special Permit

C/O Tara Powers Other:

Lighthouse Land Planning LLC

P.O. Box 5030

East Hampton, NY 11937

Telephone: 631-668-7332

FEMA ZONE: X Flood Zone

Soil Type: Montauk loamy sand, sandy variant, 3-8% slopes (MnB); Montauk loamy sand, sandy variant, 8-15% slopes (MnC)

Map of Property: N/A

Size of Parcel: 58,534.412 sq. ft.

Project Description:



To construct an approximately 250 sq. ft. two story addition within the minimum front yard lot line setbacks.

#### Relief Requested:

One variance of 6'2.25" from 255-11-10 of the Town Code is required to construct the proposed addition 33'9.75" from the western front yard lot line where a 40' setback is required, and any other relief necessary.

#### Property Conditions and History:

The property is currently improved with a two story residence with attached garage, a swimming pool with patio, decking, hot tub, gravel driveway, and sanitary system. The most recent certificate of occupancy was issued in 2015 for a one family residence having one kitchen only and containing a total of four bedrooms only, erected before the adoption of zoning; with 1,188 sq. ft. first floor addition, 1,801 sq. ft. second floor addition, 192 sq. ft. sun room; 510 sq. ft. lower level recreation room; and 539 sq. ft. garage under, 251 sq. ft. covered porches, 76 sq. ft. balcony, 264 sq. ft. covered porch, 141 sq. ft. roof deck, 98 sq. ft. balcony, 263 sq. ft. covered deck, 437 sq. ft. wood deck, 49 sq. ft. hot tub, 60 sq. ft. covered deck, 360 sq. ft. wood deck, outdoor fireplace, 1250 sq. ft. vinyl swimming pool with proper fencing and dry well; 500 sq. ft. pool patio; and deer fencing. This property has not appeared before the ZBA previously, there are wetlands to the south of the property which are outside of jurisdiction for this project.

#### Planning Department Analysis and Recommendations for the Boards Consideration:

The property is located on the northwest corner of Washington Drive and Fairview Road, in Montauk. The applicant is before the Board for approval to construct an approximately 250 sq. ft. two story addition with 3 bathrooms within front yard lot line setbacks to the west.

The existing residence is located 40'6" from the eastern lot line where a 40' setback is required. Because of the existing setback, any addition to the west side of the residence would require variances. The proposed additions are three bathrooms, two first and one second floor, added on to the existing bedrooms on that side of the residence. The proposed addition measures approximately 7' by 22'11", slightly smaller on the second floor, and meets the Towns pyramid regulations.

While the proposed addition is small and the property is encumbered with two front yards, the applicants should address how this proposed addition meets the variance standards when there are conforming locations available on the property in order to construct additional bathrooms for the residence if necessary.

There are wetlands within jurisdiction of the subject parcel which include a significant standing water pond to the southeast. However, the wetlands in the area are outside of jurisdiction for the proposed addition, located over 200' from the wetland edge and are not part of the review for this application.

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 applicant needs to show that the proposed project will not create a detriment to nearby properties, that the benefits cannot be achieved by some other method, that the project is not substantial, and will not have an adverse impact on the physical or environmental conditions.

Recommended Project Conditions:

1. N/A

**C. 278 LLC & Further Lane Homeowners Assoc LLC**

APPLICANT: 278 LLC & Further Lane Homeowners Assoc., LLC

SIZE/LOCATION: 12.07 acres (total), 264 & 266 Further Lane, East Hampton (300-189-06-14.2, 14.6)

DESCRIPTION: To construct a 4 x 659 elevated walkway to the beach on a parcel of land containing barrier dunes, beaches, dune land, beach vegetation and freshwater wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to § 255-4-20 of the Town Code.

The walkway has been proposed 100 from freshwater wetlands and is proposed to terminate 21 seaward of the barrier (primary) dune crest.

ZONING DISTRICT: A5 Residence AE, VE and X Flood Zones

SEQRA CLASS: Type II

**i. Technical Analysis Memorandum**

Technical Analysis Memorandum

Lead Agency: Zoning Board

Planner: Brian Frank

Date completed: 6/06/2017 Site Plan:

SEQRA class: Type II Sub Waiver:

Physical Location: 258 & 266 Further Lane Subdivision:

School District: East Hampton Special Permit:

Zoning District: A5 Residence Zone Change:

Overlay District: Flood Hazard Overlay District, Coastal Variance:

Erosion Overlay District Zone 1, Natural Resources

Agricultural Overlay District Special Permit: XX

Tax Map Number: 300-189-06-14.02 & 14.06 Other:

Applicant: 278 LLC & Further Lane Homeowners

Dune & Wildlife Conservation Assoc., Inc.

C/o Mathews, Kirst & Cooley, PLLC

241 Pantigo Road

East Hampton, NY 11937

Telephone: (631) 324-5909

FEMA ZONE: AE, VE and X Flood Zones

Soil Type: Dune land (Du), Beaches

Map of Property:

Size of Parcel: 12.1 acres (approximate total)

#### Project Description:

To construct a 4' x 659' elevated walkway to the beach on a parcel of land containing barrier dunes, beaches, dune land, beach vegetation and freshwater wetlands.

#### Relief:

A Natural Resources Special Permit (NRSP) pursuant to § 255-4-20 of the Town Code. The walkway has been proposed 98.6' from freshwater wetlands and is proposed to terminate 21' seaward of the barrier (primary) dune crest.

#### Property Conditions and History:

The involved properties consist of 2 parcels that are part of the recently filed subdivision 'The Estates of Further Lane' which created the 12.07 acre Reserved Area on which a majority of the walkway has been proposed. The application also may involve the southernmost portion of lot 2 of the subdivision (300-189-06-14.2), which is currently vacant. The map submitted with the application (George Walbridge Surveyors, PC revised 10/28/16) was prepared for the Reserved Area only and depicts the boardwalk wholly on the Reserved Area property. Details for the walkway are depicted on the Edmund Hollander Landscape Architect plan (single page) dated revised 11/18/16 and appears to depict the walkway extending approximately 9' into lot 2.

It should be noted that an earlier version of the application proposed two separate spurs or branches of a walkway converging in the southern portion of the property. The eastern walkway, consisting of an additional 585 linear ft., has been withdrawn from the application at this time. Based upon the cross section depicted on the earlier version of the application (Hollander (3 pgs, revised 4/18/16), the northernmost 433 linear ft. of the walkway is proposed to be elevated 18' above grade and the southern 226 linear ft. is proposed to be elevated 3 ft. above grade and include handrails. The portions of the walkway that are located seaward (south) of the State designated Coastal Erosion Hazard Area boundary appear to require a permit from the New York State Department of Environmental Conservation (NYSDEC). No comments from the NYSDEC regarding the application have been submitted to date.

Portions of this property were reviewed by the Zoning Board in 2013 (prior to its subdivision) when the Board upheld a determination of the Senior Building Inspector and denied a NRSP for two parallel concrete retaining walls comprising 762 linear ft. The Board's determination (filed 1/18/13) was upheld by the Suffolk County Supreme Court but was also remitted back to the Zoning Board for further clarification.

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

The properties involved in this application are located on the south side of Further Lane, where estate scale residential development borders a unique dune land habitat and eventually, the beaches of the Atlantic Ocean. Most of the dune land has been designated as a New York State Significant Coastal Fish and Wildlife Habitat and the proposed boardwalk is located almost entirely within the boundaries of this habitat. The Atlantic Double Dunes consists of a coastal headland that contains a sensitive and unique complex of ecological communities including beaches, barrier (primary) dunes, inter-dune swales (frequently containing freshwater wetlands) and secondary dunes. The Atlantic Double Dunes has been described as one of the largest remaining areas of undeveloped barrier beach and back dune ecosystems on Long Island. The contiguity of these unique ecological communities contributes to a high concentration of sensitive flora and fauna species adapted to the dune land habitat. Examples of significant wildlife species within the Double Dunes area include the eastern hognose snake (*Heterodon platirhinos*) and eastern spadefoot toad (*Scaphiopus holbrookii*) which are listed as species of Special Concern (SC) in New York State. The high concentration of small animals, especially rodents, are an important food source for migrating and wintering birds of prey and the area is used intensively throughout the non-breeding season by the Northern Harrier (*Circus cyaneus*) which is a Threatened species in New York State.

The application fails to meet the general Special Permit standards of § 255-5-40 and the specific Natural Resources Special Permit Standards of § 255-5-51 and should be denied as proposed. Further Lane has been the location of some of the largest and most expensive residential estates for decades. Despite the presence of this development, there have been very few applications for any direct alterations or structural improvements to this dune land habitat. As evident from aerial photographs, simple footpaths have traditionally provided beach access for the residences bordering this dune land. A majority of these footpaths consist of bare sand and a few include sections of at grade wooden boardwalks, predominantly established prior to the adoption of the Town Code's 1984 NRSP regulations.

The Planning Department is not aware of any application for a fixed, elevated boardwalk within the Double Dunes ever being requested or granted. Structural access through or near natural features protected by the Town Code (i.e. dunes, bluffs, wetlands) should be limited to circumstances where pedestrian access could not be safely provided without the structure (from a bluff crest to a beach, for example) and only when the introduction of the structure can be accomplished without unacceptable environmental impacts to the protected features. A majority of the property is flat to gently sloping and the boardwalk has been proposed within an area that had historically contained an unimproved footpath providing access to the beach for decades.

The proposed boardwalk is neither necessary for safe pedestrian access to the beach, nor can it be introduced without causing significant changes to the natural characteristics of the property. A key characteristic of the dune land habitat is the unconsolidated dune land soils that are easily moved by wind. These aeolian (wind shaped) processes directly influence the topography and the mosaic of plant communities that comprise this unique and scenic habitat. Any structure or land clearing that alters or interferes with these processes are likely to affect the dune land forms as well as the type and distribution of vegetation thereon.

The NYS Department of State has prepared a narrative for the Atlantic Double Dunes Significant Coastal Fish and Wildlife Habitat. The Impact Assessment section of the

narrative notes that the habitat is potentially vulnerable to any land disturbance or increased human activity and specifically includes the installation of boardwalks among the types of residential encroachments that would be likely to reduce the value of the habitat to wildlife. The installation of the boardwalk will alter the movement of wind that is integral to the dynamics of this habitat and the excavation of the dune land soils for the installation of the support posts will increase the potential for the introduction of invasive plant species that would also degrade the quality of the habitat. The fixed elevated structure would result in a significant alteration and diminishment of the unaltered natural beauty that contributed to the establishment of this area as part of a Scenic Area of Statewide Significance. The Board should also consider the potential cumulative impacts of additional similar structures throughout the Double Dunes if the application is granted.

The Board should be aware that the barrier dune on the subject property was breached during Hurricane Sandy. This breach resulted in the deposition of beach sand as far as roughly 300' north (landward) of the dune crest where the boardwalk has been proposed. This deposition is a natural part of the dynamic coastal processes that contribute to the formation and maintenance of this habitat. Had the boardwalk been in existence as proposed, it is likely that substantial portions of it would be partially or completely buried, requiring either the excavation of the sand or the reconstruction of the structure. The staircase to the beach would likely have been destroyed as occurred on the structure to the west (located within the Village of East Hampton), becoming water borne debris.

The protection of coastal habitats is emphasized in a variety of sections in Chapter 255 (Zoning) of the Town Code. In addition to the previously referenced Special Permit standards, ? 255-4-10D & E and ? 255-4-15D both articulate the significance of the Town's coastal habitats. Section 255-5-51D of the Town Code requires that ?All structures and uses, other than coastal structures, shall be located on upland and shall be located so that no natural resource, feature, or system designated in ? 255-4-12 hereof will be diminished in size, polluted, degraded, or lost, or placed in peril thereof, in order to establish such structure or use [emphasis added].? If there is inadequate upland for the structure or use proposed, minimal exceptions to the requirements of this section may be authorized in the permit, but only after:

- (1) Alternative reasonable uses of the property are determined not to exist; and
- (2) Alternative designs entailing smaller buildings or structures, reduced yard or other setbacks, or diminished or reconfigured areas of use are determined not to be effective in preventing loss of or potential damage to designated natural features, or the only such designs are found to be infeasible or unlawful.

In summation, the proposed boardwalk will likely result in unacceptable environmental impacts to pristine dune land protected by the Town Code. It does not appear that a similar structure has ever received a NRSP within this area of Town and no information has been submitted to date to justify such a significant deviation from the traditional methods of obtaining pedestrian access to the shoreline in this area of Town. The continued use or reestablishment of the footpath that appears to have been used on this property since at least 1962 appears to be a reasonable alternative to the boardwalk.

Summary of Mitigation:

The Planning Department recommends denial of the application.

**IV. WORK SESSION:**

**V. EXTENSION OF TIME:**

**VI. POSSIBLE ADMINISTRATIVE APPLICATIONS:**

**A. *Vigano***

SCTM# 300-23-4-11

98 Runnymede Drive

Springs

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

**B. *Lion Head Beach Property Owners Assoc.***

SCTM#300-23-2-1

Bay Inlet Road

Springs

Project description: to reconstruct a total 285 linear ft. of bulkheading on Gardiners Bay/Hog Creek inlet.

## **VII. BOARD DETERMINATIONS:**

### **A. *DeSousa***

SCTM# 300-28-5-35

121 S. Essex Street, Montauk

Modification Request - Memo from Tyler Borsack dated September 18th 2017

### **B. *Gary Symansky***

SCTM# 300-28-2-6

78 S. Fairview Avenue

Montauk

Submission of Revegetation plan by Biondo & Hammer LLP

### **C. *AFMP***

SCTM# 300-22-1-4

204 Old Montauk Highway

Montauk

AFMP LLC (Lindemann new owner ) Modification request

## **VIII. BOARD DECISIONS:**

### **A. *68 Prospect LLC***

APPLICANT: 68 Prospect Hill LLC



SIZE/LOCATION: 40,195 sq. ft., 68 Prospect Hill Ln., Prospect Hill, lot 16, map no. 7817, Montauk (300-013-02-1.14)

DESCRIPTION: To construct an approximately 7,200 sq. ft. tennis court within side yard lot line setbacks.

RELIEF SOUGHT: One variance of 11.8' from 255-11-10 of the Town Code is required to construct the proposed tennis court 38.2' from the northern side yard lot line where a 50' setback is required, and any other relief necessary.

ZONING DISTRICT: A2 Residence Zone X Flood Zone

SEQRA CLASS: Type II

### **B. Michael Hoeh**

APPLICANT: Michael Hoeh

SIZE/LOCATION: 20,924 sq. ft. (total), 26 Bay Inlet Road, Lion Head Beach; # 3451; lot 51, Springs (300-023-01-23)

DESCRIPTION: To demolish an existing one story residence and construct a new 3,408 sq. ft. two-story residence, swimming pool with decking and patio, sanitary system and driveway

on a parcel of land containing wetlands and surface waters.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 and variances from 255-4-30 and 255-11-10 (Table of Dimensional Regulations) of the Town Code and any other relief necessary. The following variances are required: (1) & (2) Variances of 24' & 35' are required to allow the residence and decking to be constructed 76' & 65' from wetlands where a 100' setback is required & (3) a 4' variance is required to install the sanitary system 146' from wetlands where a 150' setback is required.

### **C. Robert DeNiro**

APPLICANT: Robert DeNiro

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

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

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

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 variances from 255-4-40C (Coastal setbacks) of the Town Code and any other relief necessary. Variances of 70 and 75 are required to construct the residence and decking 55 & 49.6 respectively from the bluff toe where a 125 setback is required. The sanitary

system has been proposed more than 200' from wetlands.

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

SEQRA CLASS: Type II

#### **D. Christopher Haak**

APPLICANT: Christopher Haak

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

DESCRIPTION: To demolish an existing one story residence with shed and construct a new 1,556 sq. ft. two story residence with 709 sq. ft. of first and second story decking, a 236 sq. ft. patio, 192 sq. ft. shed, relocated driveway, and new sanitary system within jurisdiction

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

RELIEF SOUGHT: Six variance and a Natural Resources Special Permit pursuant to 255-4-20 of the East Hampton Town Code are required for this application. Variances of 61.1, 71.1, 71.1, and 71.2 from 255-4-30 of the Town Code are required to construct the residence, decking, patio, and shed 38.9, 28.9, 28.9, and 38.8, respectively, from wetlands where 100 setbacks are required. One variance of 10 is required to construct the shed 20 from the front yard lot line where a 30 setback is required. One variance of 163.6

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

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

ZONING DISTRICT: A2 Residence AE Flood Zone, elevation 6

SEQRA CLASS: Type II

#### **E. East Hampton Ventures LLC**

East Hampton Ventures LLC

SIZE/LOCATION: 41,765 sq. ft. total, 26 Fenmarsh Rd, Map No. 2831; Map of Clearwater Beach Sec. II, Lot 259, Springs (300-039-01-04)

DESCRIPTION: To renovate the existing 2,118 sq. ft. house, to convert a 91 sq. ft. second story deck into living space, to construct a 281 sq. ft. two story addition, to resurface and

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

on a parcel of land with wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit pursuant to ? 255-4-20 and four variances from 255-4-30 (wetland setbacks) of the Town Code. Variances of 17.4 ft., 24.6 ft., 46.6 ft., and 38 sq. ft. are required to respectively convert an existing 2nd floor deck to living space 82.6 ft., construct new shower decking 75.4 ft., add on to pool decking 53.5 ft.,

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

ZONING DISTRICT: B Residence AE6- X flood

SEQRA CLASS: Type II

**F. Richard Magrino**

APPLICANT: Richard Magrino

SIZE/LOCATION: 7,320 sq. ft. (total), 76 Benson Drive, Oceanside at Montauk, lot 114, map # 2730, Montauk (300-030-05-2.2)

DESCRIPTION: To allow a 368 sq. ft. deck addition to remain and an approximately 64 sq. ft. shed to remain relocated within jurisdiction and setbacks of freshwater wetlands.

RELIEF SOUGHT: Two variance and a Natural Resources Special Permit pursuant to 255-

East Hampton Town Code are required for this application. Variances of 74 and 46.7 are required from 255-4-30 of the Town Code to allow the shed relocation and the deck addition to remain 26 and 53.3 from freshwater wetlands where a 100 setback is required, and any other relief necessary.

ZONING DISTRICT: B Residence Zone X Flood Zone

SEQRA CLASS: Type II

**G. Michael Scaraglino**

APPLICANT: Michael Scaraglino

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

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

Town's jurisdiction of wetlands.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 of the Town Code

and a 79.5 Variance from 255-4-30 (Minimum wetland setbacks ) to allow the construction of a first story deck with staircase 20.5 from wetlands where a 100 setback is required, and any other relief necessary.

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

SEQRA CLASS: Type II

**IX. MINUTES APPROVAL:**

**A. *Minutes of October 3rd 2017***

**X. RESOLUTIONS**

**A. *Claflin***

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Application

of

DETERMINATION

JOHN and JENNIFER CLAFLIN

SCTM #300-102-03-8

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HEARING DATE: March 28, 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 A. SAVARESE, Legislative Secretary

TYLER BORSACK, Planner

JOHN CLAFLIN, 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 allow the property to remain beyond the clearing limits established in the Water Recharge Overlay District.

###### 2. RELIEF OR APPROVAL SOUGHT:

One variance of 1,582 sq. ft. from ?255-3-65 of the Town Code is required to allow the existing clearing to remain at 16,718 sq. ft. where 15,136 sq. ft. is the maximum allowed.

##### B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 41,087 sq. ft. (total)
2. STREET LOCATION: 27 Lilla Lane
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Springs
5. FILED MAP NAME: Green River Estates

6. FILED MAP NUMBER: 4116
7. DATE OF MAP FILING: July 30, 1964
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: Lots 1 and 3
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-102-3-8

C. ZONING INFORMATION

1. ZONING DISTRICT: B Residence
2. ZONING OVERLAY DISTRICT: Water Recharge Overlay District (WROD)

D. SEQRA DETERMINATION

1. SEQRA CLASSIFICATION: Type I
2. LEAD AGENCY: Zoning Board of Appeals
3. DETERMINATION OF SIGNIFICANCE: Negative Declaration
4. DATE OF DETERMINATION: October 3, 2017

E. STANDARDS FOR BOARD REVIEW

1. In order for this Board to grant applicant the requested area variances, 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.

2. 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 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 variances necessary and adequate to alleviate the difficulty causing applicant to request area variances, 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.

3. The Board finds that granting 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 property is located on Lilla Lane off of Accabonac Road near Neck Path, in Springs. The property is improved with an approximately a 2,252 sq. ft. one story residence with 650 sq. ft. of wood decking. The most recent C.O. was issued on the property in 2001 for a 1,100 sq. ft. one story, frame, one family residence having one kitchen only, 300 sq. ft. wood deck; 1,152 sq. ft. one story addition and 1,056 sq. ft. interior alteration to basement, 350 sq. ft. wood decking and garage under?. This property has not appeared before the Zoning Board previously. All existing and proposed conditions are depicted on the East End Land Surveying, P.C., survey, dated last revised July 28, 2017, and stamped received by the Zoning Board on August 7, 2017.



2. The subject parcel is before the Zoning Board of Appeals in order to request a clearing variance in the Water Recharge Overlay District (WROD) to allow the existing clearing to remain at 16,718 sq. ft. after a revegetation of 3,083 sq. ft. where a maximum clearing of 15,136 sq. ft. is allowed. In the application, the applicant states that the property was issued a certificate of occupancy in 2001, which after examining aerial images appears to be the same clearing as exists today. This clearing took place during the construction of an addition to the existing residence between 1999 and 2001.

3. The Board finds that granting the requested variance does not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. Photographs from 1999, the year the applicants purchased the parcel, show that the property was mainly cleared of natural vegetation. No neighbors submitted letters or spoke out at the public hearing against the application.

4. The Board finds that the benefit sought by the applicants, cannot be achieved by some method feasible for the applicants to pursue other than the requested area variance. The shape of the subject parcel is unique in that it is located at the end of a cul-de-sac which creates an odd shaped parcel and the existing residence is located in odd spot on the parcel. This limits the options for improvements to the property.

5. The Board finds that although the requested variance may be considered substantial, it is the minimum variance necessary and adequate to alleviate the difficulty causing the applicants to request the area variance. The applicants have worked to reduce the amount of clearing on the parcel by increasing amount of revegetation. The original application requested a variance of 3,579 sq. ft. but after taking into consideration the concerns of the Planning Department, the applicants have revised the proposed project so that a minor 1,582 sq. ft. is now requested.

6. The Board finds that granting the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Although located with the Water Recharge Overlay District, the subject parcel does not contain any sensitive wildlife habitats, unique landforms or bodies of water including wetlands. The clearing with revegetation, is not expected to negatively affect the Town's sole source aquifer.

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

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:

One variance of 1,582 sq. ft. from ?255-3-65 of the Town Code is granted to allow the existing clearing to remain at 16,718 sq. ft. where 15,136 sq. ft. is the maximum allowed.

2. DESCRIPTION OF WORK APPROVED:

To allow the property to remain beyond the clearing limits established in the Water Recharge Overlay District.

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., dated last revised July 28, 2017, and stamped received by the Zoning Board on August 7, 2017.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: N/A

3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

a. Applicants shall move the existing shed to a conforming location on the parcel, prior to the issuance of a Certificate of Occupancy.

b. Applicant shall apply for and obtain a building permit for the pool patio no more than thirty-six (36) months from the date of filing of this determination.

c. Applicant shall apply for and obtain a Certificate of Occupancy no later than twelve (12) months from the date of issuance of the building permit.

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 WHELAN, Chair

CATE ROGERS, Vice-Chair

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Member

Dated: October 10, 2017

cc: Building Department

Planning Department

John and Jennifer Claflin, Applicants

**B. Edwards**

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Application

of

DETERMINATION

JAMES EDWARDS

SCTM # 300-194-01-22

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HEARING DATE: September 12, 2017

PRESENT:            JOHN P. WHELAN, 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  
                         KATIE OSIECKI, ESQ., Agent 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 Dalene of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION: To construct an elevator tower addition within side yard lot line setbacks and outside of the Town's pyramid regulations.
  
2. RELIEF OR APPROVAL SOUGHT: One variance of 6.2', from §255-11-10 the Town Code is required to allow the elevator addition to be located 13.8' from the side yard lot line setback where a 20' setback is required; and one variance of 5.5', from §255-11-72D of the Town Code, is required to allow the elevator addition to exceed the Town's pyramid regulations by approximately 5.5', and any other relief necessary.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 43,560 sq. ft. (total)
2. STREET LOCATION: 35 Buell Lane Extension
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: East Hampton
5. FILED MAP NAME: Division of Property of Mrs. A. H. Larkin
6. FILED MAP NUMBER: 246
7. DATE OF MAP FILING: September 27, 2004
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: 19
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-194-1-22

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 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.?

2. 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.

3. 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 4,310 sq. ft. two story residence with screened porches, second story balcony, a 658 sq. ft. attached garage with storage, a shed, 704 sq. ft. swimming pool, 912 sq. ft. patio, and 198 sq. ft. pool house. The most recent Certificate of Occupancy (C.O.) was issued in 2009 for an ?Electric generator at existing single family residence?. The property has not appeared before the Zoning Board previously. The existing and proposed improvements are depicted on the Saskas Surveying Company survey, dated last revised December 9, 2016. The corresponding construction plans were prepared by Hollenbeck & Smith Architects, P.C., dated last revised December 22, 2016, and stamped received by the Zoning Board on January 3, 2017.

2. The subject property is located on Buell Lane Extension, in East Hampton. The applicants are requesting approval to construct an elevator tower addition to the eastern side of the residence within side yard lot line setbacks and outside of the Town?s pyramid regulations. The existing residence is located 19.5? from the eastern side yard lot line according to the provided survey. The elevator tower has a 7? by 5? 10? footprint and services the basement, first, and second floors. The tower is proposed to be located 13.8? from the eastern side yard lot line setback and also pierce the pyramid line by approximately 5.5?.

3. In the submitted application, the applicants state that, ??the proposal is the most effective area to construct the elevator in order to meet the needs of the property owner. This area will provide access to the basement, first and second floor in the most used and needed portion of the house. Any other location would be cost prohibitive requiring extensive alterations to the existing structure of the residence.? The application also makes note that this is a handicap accessibility issue for the family that has recently become an urgent need.

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



proposed addition is relatively modest and is not expected to interfere with the enjoyment of neighboring properties. No adjacent property owners spoke in opposition to the proposed variances either in writing or at the public hearing for this application.

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 submitted a letter from the architect explaining that the only possible conforming location would require significant alterations to the existing residence. The applicant also submitted a letter from her physician stating that the elevator is a necessary improvement to allow her to have mobility within her home.

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 new addition will be within the existing footprint of the residence, within the window well and tucked into the chimney. The total lot coverage, 15,237 sq. ft., will remain the same.

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. No wetlands, bodies of water, fragile wildlife habitats or unique landforms exist on or in close proximity to the subject parcel. No negative impact on the environment from the proposed construction is anticipated.

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).

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:

One variance of 6.2', from §255-11-10 the Town Code is granted to allow the elevator addition to be located 13.8' from the side yard lot line setback where a 20' setback is required; and one variance of 5.5', from §255-11-72D of the Town Code, is granted to allow the elevator addition to exceed the Town's pyramid regulations by approximately 5.5'.

2. DESCRIPTION OF WORK APPROVED:

To construct an elevator tower addition within side yard lot line setbacks and outside of the Town's pyramid regulations.

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 December 9, 2016.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: Dated last revised December 22, 2016 and stamped received by the Zoning Board on January 3, 2017.

3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

- a. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.
  
- b. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of issuance of the Building Permit.
  
- c. A copy of 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: October 10, 2017

cc: Building Department

Planning Department

Katie Osiecki, Due East Planning

**C. Hochhauser**

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Application

of

DETERMINATION

HOWARD HOCHHAUSER

SCTM # 300-005-01-7

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HEARING DATE: August 22, 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  
LAURIE WILTSHIRE, Agent for Applicant  
TOM PEDRAZZI, Applicant's Architect

RICHARD BEARD, Neighboring Property Owner

#### 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 make modifications to the existing residence and construct a two story addition with an approximately 45 sq. ft. swimming pool with decking, an outdoor shower, upgraded sanitary system and new driveway within the Towns jurisdiction of dunes and tidal 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 two variances. One variance of 6' is required from 255-4-30 of the Town Code to construct the decking approximately 94' from tidal wetlands where a 100' setback is required.

#### B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 14,609 sq. ft. (total)
2. STREET LOCATION: 42 Soundview Drive
3. CONTIGUOUS WATER BODIES: Block Island Sound
4. HAMLET OR GEOGRAPHIC AREA: Montauk
5. FILED MAP NAME: Soundview Estates
6. FILED MAP NUMBER: 1929

7. DATE OF MAP FILING: June 24, 1952
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: 10
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-005-01-7

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 parcel is currently improved with an approximately 976 sq. ft. one story residence with approximately 634 sq. ft. of decking. The parcel is protected with a bulkhead and rock revetment along the shoreline. All of the proposed structures are depicted on the Hands on Surveying survey dated revised January 16, 2017 and stamped received by the

Zoning Board on February 3, 2017. The corresponding construction plans were prepared by studioPEDRAZZI Architecture + Design, plans dated January 23, 2017, and stamped received by the Zoning Board on February 3, 2017. The most recent C.O. was issued in 2009 for a "Replaced in-kind, in-place 77 linear feet of bulkhead and rock armor". The property has appeared before the ZBA once previously.

2. The subject parcel is located near the eastern end of Soundview Drive, in Montauk, and is contiguous with the waters of Block Island Sound. The wave energies associated with Block Island Sound are greater than that of the other bays on the north shore of East Hampton Town. The wave energies, combined with the effects of both shore parallel and shore perpendicular coastal structures in the vicinity, have resulted in some of the most dramatic shoreline recession and damaging coastal erosion in the Town. The size and duration of the "dry" beach width (the width of the beach landward of mean high water) is highly variable and mean high water is frequently located adjacent to the bulkheads. Block Island Sound is one of the most well flushed areas within the Peconic Estuary. Nonetheless, it remains sensitive to the cumulative impacts from non-point pollution sources such as storm water runoff and sanitary effluent.

3. The existing residence on this property is a fairly small, approximately 976 sq. ft., residence and is very nonconforming to both dune crest and tidal wetland setbacks. The residence itself is located 38.5' from the dune crest and approximately 82' to the tidal wetlands, with the seaward decking setback 24.6' and approximately 62', respectively. The proposed changes and additions to the residence include removing a portion of the existing residence and constructing a small, approximately 45 sq. ft., swimming pool with decking in the same area as the existing residence and constructing a new approximately 1,400 sq. ft. two story addition on the landward side of the existing residence. This will bring the total gross floor area of the residence to 2,207 sq. ft. The applicant is proposing an upgraded sanitary system as landward as possible on the property which would be located approximately 145' from the tidal wetlands. The existing sanitary system is located slightly seaward from the proposed location and appears to be a tank with a single leaching pool which could potentially be within the groundwater table. Finally, the applicants are proposing to remove the large existing stone parking area and construct a new pervious driveway on the south side of the property. This driveway is approximately the same size on the property itself but significantly smaller area in the right-of-way.

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 proposed project will be in conformance with other homes along Soundview Drive. The Board finds no detrimental impacts to nearby properties will result from granting the requested variances.

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. With the applicants keeping the existing residence in place with minor changes, the options for



redevelopment are somewhat limited. As with all additions to existing residences on the outer bays, the setback from the dune crest is 50' if landward of the existing improvements as opposed to the normal 75' setback for new construction to encourage landward development.

6. 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 environmental conditions of the property may actually improve as the applicant will upgrade the existing sanitary system and the parcel and all new construction will occur landward of the existing residence.

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. All proposed structures have been positioned as to minimize the variances required. The total lot coverage will increase a mere 4.1%, from 28.8% to 32.9%, well below the 50% permitted for this parcel.

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. The proposed additions to the residence are modest will not interfere with the enjoyment of neighboring properties. The total lot coverage will increase a mere 4.1%, from 28.8% to 32.9%, well below the 50% permitted for this 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.

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 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. Potential detriment to the dune crest and tidal wetlands on the subject parcel will be offset by the mitigation measures set forth below.

15. 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 dunes and 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 Section 255-4-20 of the East Hampton Town Code and two variances are granted. One variance of 6' is granted from §255-4-30 of the Town Code to construct the decking approximately 94' from tidal wetlands where a 100' setback is required. One variance of 1' is granted from §255-11-10 of the Town Code to construct the pool decking approximately 19' from the side yard lot line where a 20' setback is required.

##### 2. DESCRIPTION OF WORK APPROVED:

To make modifications to the existing residence and construct a two story addition with an approximately 45 sq. ft. swimming pool with decking, an outdoor shower, upgraded sanitary system and new driveway within the Town's jurisdiction of dunes and tidal 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: Applicant shall submit a revised survey eliminating the need for the 1? side yard setback variance for the pool decking.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by studioPEDRAZZI Architecture + Design, dated January 23, 2017 and stamped received by the Zoning Board on February 3, 2017. If necessary, applicant shall submit revised plans that eliminate the need for the 1? side yard variance for the pool decking.

3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

a. Sediment control fencing consisting of staked straw bales or silt mesh fencing shall be erected along the NYSDEC Coastal Erosion Hazard Line as depicted on the approved survey. 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 for proper installation.

c. All areas disturbed by construction activities shall be revegetated with Beach Grass (*Ammophila breviligulata*) planted 12? on centers in culms of three or more in staggered rows.

d. 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.

e. 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 shall 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. All pool water shall be discharged into a drywell located at least 100' from the wetlands on the survey.

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

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

j. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.

k. 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. 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 WHELAN, Chairman  
CATE ROGERS, Vice-Chair  
DAVID LYS, Member  
ROY DALENE, Member  
THERESA BERGER, Member

Dated: October 10, 2017

cc: Building Department  
Planning Department  
Laurie Wiltshire, Agent for Applicant

***D. Scalia***

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Application

of

DETERMINATION

JOSEPH SCALIA

SCTM # 300-176-01-08

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HEARING DATE: August 1, 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, Stenographer  
                          LISA D?ANDREA, Planning Department  
                          JOEL HALSEY, Agent for Applicant  
                          JOSEPH SCALIA, 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 Lys of this Board.

A.     PROJECT DESCRIPTION

1.     PURPOSE OF APPLICATION: To allow the 1,695 sq. ft. existing residence and shed to remain, to install new decking around the existing pool and install a new sanitary system on a parcel of land within Natural Resources Special Permit jurisdiction.

2. RELIEF OR APPROVAL SOUGHT: A Natural Resources Special Permit (NRSP) of 255-4-20 of the Town Code is requested.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 12,000 sq. ft. (total)
2. STREET LOCATION: 10 Bayberry Lane
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Amagansett
5. FILED MAP NAME: Hampton Dunes
6. FILED MAP NUMBER: 4694
7. DATE OF MAP FILING: August 17, 1966
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: 99
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-176-01-08

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. 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 parcel is improved with a 1,445 sq. ft. two story residence with 628 sq. ft. of decking and a 480 sq. ft. pool was constructed prior to zoning. In 1993, a building permit was issued for a shed. The most recent Certificate of Occupancy was issued on September 20, 1993. On November 16, 2016, a building permit was issued to build a 500 sq. ft. interior renovation. On January 13, 2017, a building permit was issued for construction of an 80 sq. ft. shed and a 216 sq. ft. covered porch. All existing and proposed structures are depicted on the Barylski Land Surveying survey dated last revised August 7, 2017, and stamped received by the Zoning Board on August 15, 2017. The corresponding construction plans were prepared by D.B. Bennett, P.E., P.C., dated last revised August 14, 2017, and stamped received by the Zoning Board on August 15, 2017.

2. A building permit was issued in 2016 to build 500 sq. ft. of interior renovations that was deemed by the Building Department not to need a Natural Resources Special Permit (?NRSP?). Also, a building permit was issued on January 13, 2017, to build an 80 sq. ft.



shed and a 216 sq. ft. covered porch that also was deemed not to need a NRSP. According to the plans submitted with the building permit, the ?covered porch? was actually to be a 216 sq. ft. covered patio with an outdoor kitchen to be located south of the pool. However, it appears that during the construction process, the project changed and a new roof and decking attached to the house were constructed within wetland jurisdiction that do require a NRSP. Exterior renovation of the house also took place. The current application for the removal of the existing pool deck and construction of a new pool deck require a NRSP.

3. The existing decking around the pool was removed as was a shed and walkway. Three new decks were constructed next to the house. The walkway has been reconfigured. These changes took place within wetland jurisdiction without the benefit of a NRSP or building permits. At one point during this application process, a survey was submitted to the file indicating that there would be no decking around the pool. It appears that the applicant wanted to establish a turf lawn around the pool. The applicant was apprised that establishment of turf lawn would not be permitted. Consequently, a new deck around the pool has been designed and is depicted on the Barylski Land Surveying survey dated last revised August 7, 2017, and stamped received by the Zoning Board on August 15, 2017.

4. The existing sanitary system consists of a cesspool without a septic tank. The applicant is now proposing to install a new sanitary system south of the pool and will require a retaining wall. The new system will be greater than 150 feet from the wetland and will improve the environmental conditions on the property.

5. The construction of the new decks and the new roof is well beyond the minimum 100 ft. wetland setback. Two of the new decks attached to the house are out of NRSP jurisdiction. Overall building coverage and total coverage have been reduced. This project is one that may have qualified for administrative review where precautions during the construction process to protect the northeast portion of the property deemed to be dune land with beach vegetation could have been taken. Unfortunately, work has occurred on site beyond what the building permits were issued for and construction began on structures located within NRSP jurisdiction without proper permits. This has resulted in impacts to existing duneland. The applicant was asked by the Planning Department to clean up the debris in this area and he has done so.

6. 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 residence will be in compliance with current FEMA regulations and revegetated without causing a detriment to freshwater wetlands.

7. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The proposed coverages will remain relatively low. The existing building coverage will not change, remaining well below the 2,400 sq. ft. allowed for this

parcel. The total lot coverage will modestly increase from 2,190 sq. ft. to 2,800 sq. ft. where 6,000 sq. ft. is permitted.

8. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties because the proposed project is a modest proposal and will not interfere with the enjoyment of neighboring properties. The principal structures are not increasing in size, only the decking is increasing. The proposed project does not require any front, rear, side yard setback variances or relief from pyramid regulations.

9. 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 parcel is already significantly developed. Although the parcel is within freshwater wetland jurisdiction, no other unique landforms or sensitive wildlife habitats have been identified on the site. The overall environmental conditions on the subject parcel are expected to improve as the project includes the installation of a new septic system. Moreover, applicant has agreed to raise the residence to FEMA compliance. By meeting FEMA, applicant will improve the environmental conditions on the property.

10. The Board finds that adequate buffer yards and screening can and will be provided to protect adjacent properties and land uses from possible detrimental impacts of the proposed use. The applicants will revegetate the parcel which will help to create a protective buffer for the wetlands.

11. 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 be directed by leaders and gutters into one or more catchment basins. As noted above, applicant will be raising the existing residence to meet FEMA.

12. 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 freshwater wetlands located in close proximity to the parcel.

13. The Board finds that the application with the mitigation measures set forth herein meets the requirements for a Natural Resource Special Permit.

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) of 255-4-20 of the Town Code is granted.
  
2. DESCRIPTION OF WORK APPROVED: To allow the 1,695 sq. ft. existing residence and shed to remain, to install new decking around the existing pool and install a new sanitary system on a parcel of land within Natural Resources Special Permit jurisdiction.

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 last revised August 7, 2017, and stamped received by the Zoning Board on August 15, 2017.
  
2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by D.B. Bennett, P.E., P.C., dated last revised August 14, 2017, and stamped received by the Zoning Board on August 15, 2017.
  
3. APPROVED PLANNING DEPARTMENT SKETCH: Dated April 26, 2017 and adapted from the Barylski Land Surveying survey dated last revised April 19, 2017, and stamped received by the Zoning Board on April 26, 2017.
  
4. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

- a. Project limiting fencing consisting of 4' plastic safety or snow fence shall be erected in the location depicted on the attached Planning Department sketch dated April 26, 2017 (approved above) 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. 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.
- c. The establishment of turf, lawn, sod or ornamental vegetation shall be prohibited.
- d. The house 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.
- e. The Dune land soils excavated for the new sanitary system 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. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.
- 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 that twelve (12) months from the date of issuance of the building permit.

#### 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, Chairperson

CATE ROGERS, Vice-Chairperson

DAVID LYS, Member

ROY DALENE Member

THERESA BERGER, Member

Dated: October 10, 2017

cc: Building Department  
Planning Department  
Joel Halsey, Agent for Applicant

***E. 80 Firestone***

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Appeal of

80 FIRESTONE LLC

SCTM# 300-17-1-15

DETERMINATION

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HEARING DATE: August 22, 2017

October 18, 2016

PRESENT: CATE ROGERS, Vice-Chair (present at August 22, 2017 hearing only)

DAVID LYS, Member

ROY DALENE, Member

THERESA BERGER, Membber

ALSO PRESENT: ELIZABETH L. BALDWIN, ESQ., Counsel to the Board

(present at both October 18, 2016 and August 22, 2017 hearings)

NORA JACOBS, Clerk Typist (present at October 22, 2016  
hearing)

DENISE SAVARESE, Legislative Secretary (present at August 2017  
hearing)

RICHARD A. HAMMER, ESQ., Attorney for Applicant

(present at October 2016 hearing)

JOEL HALSEY, Agent for Applicant (present at October 2016 hearing)

MARK R. BYRNES, PhD, Agent for Applicant

(present at October 2016 hearing)

BRIAN FRANK, Chief Environmental Analyst

(present at both October 18, 2016 and August 22, 2017 hearings)

MARGUERITE WOLFFSOHN, Planning Director

(present at October 2016 hearing)

MICHAEL WALSH, ESQ., Agent for Applicant

(present at August 22, 2017 hearing)

#### 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 Members Lys and Berger of this Board.

#### A. PROJECT DESCRIPTION

##### 1. PURPOSE OF APPLICATION:

An appeal of the Principal Building Inspector pursuant to the ? 255-8-35A(1) of the Town Code.

##### 2. RELIEF OR APPROVAL SOUGHT:

Appeal of determination of Building Inspector dated August 5, 2016 finding that protected natural features on the property have been accurately identified on June 29, 2016 by the Planning Director.

#### B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 48,478 sq. ft.
2. STREET LOCATION: 80 Firestone Road

3. CONTIGUOUS WATER BODIES: Fort Pond Bay
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: #300-17-1-5

C. ZONING INFORMATION

1. ZONING DISTRICT: RS
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. PROCEDURAL HISTORY

1. This application is an appeal of the Principle Building Inspector's determination dated August 5, 2016, which found that natural features were correctly delineated by the Planning Director. The Zoning Board first reviewed this appeal application in 2016. Chairman Whelan recused himself from this application. The Board held a public hearing on the appeal on October 18, 2016. The Board discussed the appeal at its November 15, 2016 worksession. As no majority vote was attained, the result was a default denial pursuant to NYS Town Law



267-a(b)(13) and thereby the building inspector's determination was upheld. The applicant filed an Article 78 appealing the Board's default denial.

2. Following the Board's 2016 review of the building inspector's determination, additional lot inspection documents were found in the Planning Department's files that were not previously available for the 2016 review. Due to the additional documentation, the applicant requested a rehearing of the application. On April 4, 2017, the Board, pursuant to Town Law §267-a(12), voted unanimously to hold a rehearing of the appeal of the building inspector's determination.

3. A rehearing of the appeal of the building inspector's determination was held on August 22, 2017. The Board discussed the application at its September 19, 2017 worksession.

#### FINDINGS AND CONCLUSIONS OF EACH OF THE MEMBERS OF THE BOARD

1. For the reasons stated on the record at the Board's November 8, 2016 and September 19, 2017 meeting, Vice Chair Rogers votes to uphold the building inspector's determination.

2. For the reasons stated on the record at the Board's November 8, 2016 and September 19, 2017 meeting, Member Berger votes to uphold the building inspector's determination.

3. For the reasons stated on the record at the Board's November 8, 2016 and September 19, 2017 meeting, Member Lys votes to overturn the building inspector's determination.

4. For the reasons stated on the record at the Board's November 8, 2016 and September 19, 2017 meeting, Member Dalene votes to overturn the building inspector's determination.

G. DISPOSITION OF APPLICATION

For the reasons set forth herein, the determination with respect to the application is as follows:

DETERMINATION:

The Applicant's request to overturn the building inspector's determination finding that the protected natural features on the property have been accurately identified on June 29, 2016 by the Planning Director is hereby denied by default pursuant to New York State Town Law 267-a(13)(b), as there is no affirmative vote of a majority of all members of the Board.

CONCURRING TO UPHOLD THE BUILDING INSPECTOR'S DETERMINATION:

CATE ROGERS, Vice-Chair

THERESA BERGER, Member

CONCURRING TO OVERTURN THE BUILDING INSPECTOR'S DETERMINATION:

DAVID LYS, Member

ROY DALENE, Member

Dated: October\_\_\_\_, 2017

cc: Building Department

Planning Department

Michael Walsh, Esq.

Richard A. Hammer, Esq.

**F. Hadden**

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

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In the Matter of the Application

of

DETERMINATION

JOHN W. HADDEN, II

SCTM # 300-194-01-15

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HEARING DATE: September 12, 2017

PRESENT:            JOHN P. WHELAN, 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

TREVOR DARRELL, ESQ., Agent 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 Dalene of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION: To relocate the existing residence, with alterations and additions, outside of the Town's pyramid regulations along the southern lot line.

2. RELIEF OR APPROVAL SOUGHT: One variance of 11' from §255-11-72D the East Hampton Town Code is required to allow the residence to extend approximately 11' beyond the pyramid regulations along the southern lot line, and any other relief necessary.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 27,500 sq. ft. (total)
2. STREET LOCATION: 57 Buell Lane Extension
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: East Hampton
5. FILED MAP NAME: Division of Property of Mrs. A. H. Larkin
6. FILED MAP NUMBER: 246
7. DATE OF MAP FILING: September 27, 1915
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: p/o 13 & 14

10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-194-01-15

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 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.?

2. 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.

3. 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 2,800 sq. ft. two story residence with 528 sq. ft. attached garage a 252 sq. ft. wood deck, and a 720 sq. ft. swimming pool. The most recent C.O. was issued in 2007 for a ?986 sq. ft. first floor, 971 sq. ft. second floor, frame, two-story, one family residence having one kitchen only; with 359 sq. ft. first floor addition, 474 sq. ft. second floor addition, 240 sq. ft. alteration, 156 sq. ft. second floor alteration, 528 sq. ft. attached garage and 252 sq. ft. wood deck; 720 sq. ft. gunite swimming pool with proper fencing and dry well?. The property has not appeared before the Zoning Board previously. All existing and proposed improvements are depicted on the Saskas Surveying Company, P.C. survey, dated last revised November 2, 2016, and stamped received by the Zoning Board on November 30, 2016. The corresponding project plans were prepared by Bruce A.T. Siska, AIA, Architect, PLLC, dated March 23, 2015, and stamped received by the Zoning Board on November 30, 2016.

2. The subject property is located on a private road off of Buell Lane Extension, in East Hampton. The applicant is requesting approval to relocate the existing residence farther east on the property with additions to the northeast side of the residence. As part of the project, the applicant will need to relocate the driveway and sanitary system. After the relocation, the southern side of the residence would extend approximately 11? outside of the Town?s pyramid regulations.

3. The existing residence on the property is slightly crooked and near the rear of the property. The existing conditions include pre-existing non-conformity with the pyramid line along both the northern and southern lot lines. The existing pyramid violations are approximately 3? along the northern lot line at its greatest point and approximately 15? along the southern property line at its greatest point. Both violations decrease over the length of the residence since the house is slightly crooked in relation to the property lines. The project proposes to align the residence with the property lines and locate the residence up against the northern side yard lot line setback to reduce the violation of the southern pyramid line. The proposed project removes the pyramid violation to the northern property line altogether. The removal of the northern pyramid violation removes the nonconformity along a neighboring residential property while the reduced southern nonconformity is along a 20? wide flag strip for 61 Buell Lane Extension.

4. The Board finds that granting the requested variance will not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. Relocating the residence will not have interfere with the enjoyment of neighboring properties. The neighbors most affected by the proposed project submitted letters in support.

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 variance. In its current location, the residence is non-conforming with regard to pyramid regulations as it is near the rear lot line and set crookedly on the property. The residence will be relocated in the best position on the parcel to eliminate one pyramid nonconformity and reduce the size of the other.

6. The Board finds that although the requested variance may be considered substantial, it is the minimum variance necessary and adequate to alleviate the difficulty causing the applicant to request the area variance. The applicant is proposing to relocate the existing residence to a more conforming location, eliminating the pyramid violation along the northern lot line and significantly reducing the size of the pyramid violation on the southern lot line.

7. The Board finds that granting the requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The applicant has already upgraded the septic system to accommodate the additional habitable space. No wetlands, bodies of water, fragile wildlife habitats or unique landforms exist on or in close proximity to the subject parcel. No negative impact from the proposed project is anticipated.

8. The Board finds that the need for the variance 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).

#### 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:

One variance of 11' from 255-11-72D the East Hampton Town Code is granted to allow the residence to extend approximately 11' beyond the pyramid regulations along the southern lot line.

2. DESCRIPTION OF WORK APPROVED:

To relocate the existing residence, with alterations and additions, outside of the Town's pyramid regulations along the southern lot line.

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 November 2, 2016, and stamped received by the Zoning Board on November 30, 2016.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: The corresponding project plans were prepared by Bruce A.T. Siska, AIA, Architect, PLLC, dated March 23, 2015, and stamped received by the Zoning Board on November 30, 2016.

3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

a. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.

b. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of issuance of the Building Permit.

c. A copy of 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: October 10, 2017

cc: Building Department

Planning Department

Trevor Darrell, Esq., Agent for Applicant