



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 February 6,
2018
East Hampton, New York**

I. CALL TO ORDER

6:30 PM Meeting called to order on February 6, 2018 at Town Hall Meeting Room, 159 Pantigo Road, East Hampton, NY.

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

II. CANCELLED PUBLIC HEARING:

A. 3 Kidd Surf Shack

III. SCHEDULED PUBLIC HEARINGS:

A. Jay P. Shapiro

TIME: 6:30:00 PM

APPLICANT: Jay P. Shapiro

SIZE/LOCATION: 75,125 sq. ft., 6 Lighthouse Road, Lighthouse Landing at Northwest Harbor, lot 2, Map no. 6696, East Hampton (300-054-02-02)

DESCRIPTION: To allow an existing garage to remain outside of the Town's pyramid regulations.

RELIEF SOUGHT: One variance of 5.8 is required from 255-11-72D of the Town Code to allow the existing garage to remain 5.8 outside of the Town's pyramid regulations, and any other relief necessary.

ZONING DISTRICT: A2 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: October 27, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 6 Lighthouse Road Subdivision

School District: East Hampton Special Permit

Zoning District: A2 Residence Zone Change

Overlay District: N/A Variance XX

Tax Map Number: 300-054-02-2 Natural Resources

| | | |
|------------|-------------------------------|----------------|
| Applicant: | Jay P. Shapiro | Special Permit |
| | C/O Robert M. Fischette, Esq. | Other: |
| | Fernan & Fischette, LLP | |

320 Hampton Road

Southampton, NY 11968

Telephone: 631-283-3510

FEMA ZONE: X Flood Zone

Soil Type: Carver an Plymouth sands 3-15% slopes (CpC)

Map of Property: Lighthouse Landing at Northwest Harbor, lot 2, map no. 6696

Size of Parcel: 75,125 sq. ft.

Project Description:

To allow an existing garage to remain outside of the Towns pyramid regulations

Relief Requested:

One variances of 5.8' is required from §255-11-72D of the Town Code to allow the existing garage to remain 5.8' outside of the Town's pyramid regulations, and any other relief necessary.

Property Conditions and History:

The property is currently improved with a two story residence with brick patio and porch, a swimming pool with brick patio, multiple sheds, and garage. The most recent C.O. on file was issued 10/29/2014 for a 1,054 sq. ft. first floor, 646 sq. ft. second floor, frame, two-story one family residence having one kitchen only, with 1,573 sq. ft. first floor addition, 345 sq. ft. second floor addition all to residence, 900 sq. ft. vinyl swimming pool with proper fencing and dry well, 500 sq. ft. patio, and eight foot high deer fencing. All of the existing structures can be seen on the George Walbridge Surveyors, P.C. survey dated revised May 19, 2017. The property has not appeared before the Zoning Board previously.

Planning Department Analysis and Recommendations for the Boards Consideration:

The subject parcel is located on the southeast side of the cul-de-sac at the end of Lighthouse Road off of Alewife Brook Rd, in East Hampton. The applicants are requesting a variance in order to allow an existing two-car garage to remain outside of the Town's pyramid regulations along the northern side yard lot line.

According to the application, the original plans by the architect had the garage located 25' from the side yard lot line and was moved closer to the property line to avoid changes in natural grade. The building permit (B.P. 63471) was filed with the new location without the architect, builder, or Town building inspector realizing that the new location would violate the pyramid regulations. The building permit was issued and construction was completed before it the error was realized. The applicants are now asking to allow the garage to remain in the location that was shown on the survey used for the erroneously issued building permit which is outside of the Town's pyramid regulations by 5.8' at its greatest point.

The applicants have provided the total cubic feet of the violation which is something that the Board has been requesting lately in pyramid variance applications. The building plans show that there are 471.43 cubic feet of space that violate the pyramid regulations. The dormer on the north side is the majority of the area that violates the pyramid line; however, a small area of the normal roofline also violates the pyramid line by approximately 2.3'.

The Zoning Board needs to decide if the application meets the variance standards in ?255-8-50. The applicant needs to show that the proposed project will not create a detriment to nearby properties, that the benefits cannot be achieved by some other method, that the project is not substantial, and will not have an adverse impact on the physical or environmental conditions.

Recommended Project Conditions:

1. N/A - existing structure.

B. 3 Beach Plum LLC

TIME: 6:50:00 PM APPLICANT: 3 Beach Plum LLC

SIZE/LOCATION: 41,641 sq. ft. (total), 3 Beach Plum Court, Map of Beach Plum Park; # 8834, lot 2, Amagansett (300-110-02-19.2)

DESCRIPTION: To construct a 5,503 sq. ft. two-story residence and basement with a 3,549 sq. ft. 2nd floor footprint and approximately 2,145 sq. ft. of 2nd story decking, a swimming pool and sanitary system on a parcel of land containing freshwater wetlands and beach vegetation.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 and variances from 255-4-40 (Minimum wetland setbacks) of the Town Code and any other relief necessary. Variances of 24.7 and 18.2 are required to construct the residence and decking 75.3 and 81.8 respectively from the wetlands.

ZONING DISTRICT: A2 Residence, AE Flood Zone, elevation 10'

SEQRA CLASS: Type II

i. Technical Analysis Memorandum

Technical Analysis Memorandum

Lead Agency: (not applicable)

Planner: Brian Frank

Date completed: 11/17/2017 Site Plan

SEQRA class: Type II Sub Waiver
Physical Location: 3 Beach Plum Court Subdivision
School District: Amagansett Special Permit
Zoning District: A2 Residence Zone Change
Overlay District: Variance: XX
Tax Map Number: 300-110-02-19.2 Natural Resources
Applicant: 3 Beach Plum LLC Special Permit: XX
C/o Pablo Jendretzki Other:
860 West End Ave, Fl 2
New York, NY 10025
Telephone: (212) 864-2636
FEMA ZONE: AE Flood Zone, elevation 10'
Soil Type: Dune land (Du)
Map of Property: Map of Beach Plum Park; # 8834, lot 2
Size of Parcel: 41,641 sq. ft. (total)

Project Description:

To construct a 5,503 sq. ft. two-story residence and basement with a 3,549 sq. ft. 2nd floor footprint and approximately 2,145 sq. ft. of 2nd story decking, a swimming pool and sanitary system on a parcel of land containing freshwater wetlands and beach vegetation.

Relief:

A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 and variances from 255-4-40 (Minimum wetland setbacks) of the Town Code and any other relief necessary. Variances of 24.7 and 18.2 are required to construct the residence and decking 75.3 and 81.8 respectively from the wetlands.

Property Conditions and History:

The subject premises are presently vacant and consist predominantly of pristine dune land and beach vegetation as defined by the Town Code. The most recent survey of the property was prepared by George Walbridge Surveyors; PC dated revised 6/22/17. The corresponding floor and elevation plans were prepared by C3 Architecture (9 pgs) dated 2/20/17 and stamped received by the Board on 3/13/17. A sanitary system plan has been submitted by TF Engineering (single page) dated 6/22/17. As noted on the survey, the property is located within a Coastal Barrier Resources Area (COBRA) as indicated on FIRM maps. The Coastal Barrier Resources System was created in the Coastal Barrier Resources Act of 1982. Coastal Barriers were identified to reduce the loss of human life and damage to natural resources by restricting Federal spending and financial assistance that encourage the development of coastal barriers. It should be noted that the basement has been proposed at an elevation of 10 above sea level and may need to be revised to meet the 2 of free board height above the 10 flood zone elevation requirement if it contains habitable space. The swimming pool has been proposed within the footprint of the 2nd story deck approximately 106 from wetlands and the sanitary system has been proposed 150 from the closest wetland.

The property is one of seven building parcels within the Beach Plum Park subdivision. The map for Beach Plum Park was originally filed in 1989 after extensive environmental review due to the extreme environmental significance and sensitivity of the property. The subdivision established an open space or clustered subdivision in which the building envelopes were concentrated in the locations that complied with minimum natural resource setbacks from the primary dune crest to the south and the extensive network of wetlands and rare plants, identified during the subdivision review, to the north. An approximately 14.6 acre Reserved Area was established to the north and south of the building lots.

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

The Planning Department does object to the proposed square footage of the residence or the dimensional setbacks to the wetlands. The extent of clearing to a protected natural feature, however, does not satisfy the NRSP standards of the Town Code. Dunes and beach vegetation have been protected by the Town Code since at least 1984. Many of the characteristic plant species that grow in this habitat are restricted to native dune land soils with their rapid drainage, low nutrient levels and their symbiotic dependence upon micorrhizal fungi. These species and the undulating dune features on which they form cannot effectively be created by landscaping techniques and the most effective measure of conservation on privately owned parcels in these areas is to limit land clearing to the minimum area practical. The dune land is pristine in the southern portion of the property and only degraded in the northern portion of the property by the presence of Japanese black pine (*Pinus thunbergii*), which has slowly colonized portions of this dune community over the past half a century. This dune land habitat has become less common throughout Long Island and the Mid-Atlantic region. Among the dominant vegetation are beach heather

(*Hudsonia tomentosa*) and bearberry (*Arctostaphylos uva-ursi*), an evergreen ground cover species forming a dense carpet across large areas of the parcel. The property also contains the NYS Rare species, pine barren sandwort (*Arenaria caroliniana*).

Most of the wetlands located throughout the subdivided parcels and Reserved Areas are Maritime Inter-dunal swales as defined by the New York State Natural Heritage Program. They are groundwater sustained marshes and shrub swamps that contain significant quantities of standing water or soil saturation during most of the growing season and display a very high diversity of herbaceous species, many of which are found exclusively in freshwater wetlands. The wetlands located along and near the eastern property boundary are less extensive and do not contain a comparable level of vegetative diversity or the extent of saturation as many of the other wetlands. It is the Planning Department's opinion that these wetlands are best conserved as a component of the surrounding dune land.

It is the Planning Department's opinion that the project as designed fails to meet general Special Permit standards of 255-5-40 and the specific NRSP standards of 55-5-51. The extent of clearing that has been proposed (20,395 sq. ft.) is within 40 sq. ft. of the maximum permitted for a property of this size that does not contain protected natural features. In order to be eligible for the NRSP, 255-5-40 (K) of the Town Code requires that the proposed use may be introduced there without undue disturbance or disruption of important natural features, systems or processes Section 255-5-51(D) further requires that All structures 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. This Code provision allows minimal exceptions to the requirements of this section only after (2) Alternative designs entailing smaller buildings or structures or diminished or reconfigured areas of use are determined not to be effective in preventing loss of or potential damage to designated natural features

There are numerous revisions that can reduce the extent of disturbance to the property without reducing the gross floor area of the residence. The proposed driveway is sprawling, extending significantly along the western property boundary, under the northern second story wing of the house and contains a circular design element not found in any of the other improved properties in the Beach Plum Park subdivision. Six drywells for the driveway have been proposed beyond the footprint of the structure. The sanitary system contains two separate leaching fields with seven 8' diameter leaching pools in the western field and five pools in the eastern field, not including the expansion pools for each field. The sanitary system should be consolidated and contained within retaining walls to eliminate the need for the extensive grading that has been proposed. Based upon the building plans, the residence has a proposed first floor area of 1,954 sq. ft. and 3,549 sq. ft. on the second floor, with overhangs that increase the building's footprint to 4,282 exclusive of decking. Increasing the first floor and decreasing the second would further consolidate the mass of the building and appurtenances, facilitating a greater retention of the protected dune land and its vegetation. Many properties containing pristine dune land and freshwater wetlands, including the other properties in the Beach Plum Park subdivision, have had scenic or conservation easements established by the Planning or Zoning Board to conserve areas of protected natural features in perpetuity. For any approval on the subject property, a

conservation easement should be established in the eastern portion of the property beyond the approved clearing limits. Other mitigation measures, typically required by the Board in conjunction with dune land, beach vegetation and freshwater wetlands are summarized below.

Summary of Mitigation

The Planning Department recommends denial of the application as presently designed. Suggested project revisions are expressed above. For any residence, sanitary system and appurtenances approved by the Board, the following mitigation measures are recommended:

- a. Project limiting fencing consisting of 4 plastic safety or snow fence shall be erected concurrent with the clearing boundary approved by the Board to limit the clearing of vegetation and land disturbance. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged, deteriorated or upon request of the Building Department or a delegate of the Zoning Board of Appeals.
- b. Sediment control fencing consisting of reinforced silt mesh fencing shall be erected concurrent with the project limiting fence within 100 of the wetlands on the survey to prevent sedimentation of the wetlands. The fencing shall be installed and maintained in accordance with the New York State Standards and Specifications for Erosion and Sediment Control manual prior to the commencement and for the duration of construction activities. The fencing shall be repaired or replaced as necessary to maintain proper function.
- c. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing for proper installation.
- d. The clearing of vegetation and the filling, grading or recontouring of the property shall be strictly limited to the boundaries established by the Board and any proposed grading depicted on the approved survey or site plan.
- e. A scenic easement shall be established in the eastern portion of the property. 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.

- f. 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.

- g. 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.

- h. 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.

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

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

- 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 located at least 100 from the wetlands on the survey.

- m. The driveway should be composed of only of a clean, local, water-pervious quartz gravel surface. In the alternative, the driveway composition and any drainage structures should be reviewed and approved by the Town Engineer prior to the issuance of a building permit. The completed driveway and drainage structures should be inspected by the Town Engineer prior to the issuance of a Certificate of Occupancy.

- n. 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.

C. Skrenta

TIME: 7:30:00 PM

APPLICANT: Skrenta

SIZE/LOCATION: 12,000 sq. ft, 32 Treasure Island Dr, Map No. 1319; Beach Hampton Sec. 4, Lots 18-23 incl. Block 2, Amagansett (300-175-05-07)

DESCRIPTION: To remove a brick patio and shed, remove approximately 2,250 sq. ft. of invasive plants and revegetate with native species, to construct a 528 sq. ft. pool and a new sanitary system within Natural Resources Special Permit jurisdiction.

RELIEF SOUGHT: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 of the Town Code is required to allow the proposed swimming pool to be located 20 from the southern front yard lot line where a 30 setback is required, and any relief necessary.

ZONING DISTRICT: B Residence, AE Flood Zone, elevation 9

SEQRA CLASS: Type II

8/22/2017

i. Technical Analysis Memorandum

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Lisa D'Andrea

Date completed: November 17, 2017 Site Plan

SEQRA class: Type II Sub Waiver

Physical Location: 32 Treasure Island Dr. Subdivision

School District: Amagansett Special Permit

Zoning District: B Residential Zone Change

Overlay District: Variance XX

Tax Map Number: 300-175-05-07 Natural Resources

Applicant: Skrenta

Special Permit XX

c/o Matthews, Kirst, and Cooley PLLC

241 Pantigo Rd.

East Hampton, N.Y. 11937

Telephone: (631) 324-5909

FEMA ZONE: AE 10 Flood Zone

Soil Type: Duneland

Map of Property: Map No. 1319; Beach Hampton Sec. 4, Lots 18-23 incl. Block 2

Size of Parcel: 12,000 sq. ft.

Project Description: To remove a brick patio and shed, remove approximately 2,250 sq. ft. of invasive plants and revegetate with native species, to construct a 528 sq. ft. pool and a new sanitary system within Natural Resources Special Permit jurisdiction.

Relief Requested: A Natural Resources Special Permit (NRSP) pursuant to 255-4-20 of the Town Code and one variance of 10 from 255-11-10 of the Town Code is required to allow the proposed swimming pool to be located 20 from the southern front yard lot line where a 30 setback is required, and any relief necessary.

Property and History:

The subject premises are located in Beach Hampton. The property is sub-standard with regard to lot size and frontage within B zoning. The 12,000 sq. ft. lot is a 75 ft. by 160 ft. rectangle. It is not an irregularly shaped parcel. The size and width of the property limit the type and locations of structures that can be constructed in compliance with zoning setbacks.

The original 850 sq. ft. one story residence and 56 sq. ft. shed were built before the adoption of zoning. In 2005 the owners applied for a NRSP and variances for 1,919 sq. ft. of additions to the existing residence, a retaining wall, porch and sanitary system upgrade. The NRSP and variances were granted by the Board with a condition that a scenic easement a depth of 30 ft. be placed over the rear portion of the property. The conditions of the 2006

determination also specified that all areas disturbed by construction were to be revegetated. Under the conditions of the permit a revegetation plan consisting of American beach grass (*Ammophila breviligulata*), northern bayberry (*Myrica pensylvanica*) and beach plum (*Prunus maritima*) was to be submitted and approved by the Board prior to the issuance of a building permit. And the establishment of turf lawn or ornamental vegetation was prohibited.

A scenic easement was drawn up and was signed by the owners. A resolution and public hearing was held, but the easement was apparently not signed by the Town or filed with Suffolk County. When the new owner and current applicant purchased the property, it appears that the scenic easement did not show up on the title search.

The most recent Certificate of Occupancy (CO) was issued December 5, 2008. The Saskas Surveying survey, dated revised October 20, 2008, attached to the CO, depicts the scenic easement.

The owner acquired the property July 23, 2014. In 2016, he applied for a NRSP to remove a brick patio and shed and to remove invasive species. The survey submitted with that application depicted a proposed swimming pool location. Town records showed that a building permit had been issued on March 11, 2014 for this proposed swimming pool. The building permit was rescinded on April 21, 2016 by the Building Department. A 2005 lot inspection indicated that a NRSP was required to construct a pool in that location because of the presence of beach vegetation.

In the Technical Analysis Memo the Planning Department recommended that if the Board granted a NRSP for the removal of the shed, brick patio, and invasive removal that a scenic easement be placed in the same location as was required in the conditions of the 2006 determination. The applicant amended the application to include a pool and new sanitary system. The pool and pool equipment required variances. A public hearing was scheduled but was postponed. The applicant has once more amended the project. The variances for the pool and pool equipment have been eliminated.

All existing and proposed structures are depicted on a Saskas Surveying survey dated revised August 16, 2017 and received by the Board October 5, 2017. The Skrenta residence revegetation by Marders, dated January 18, 2017 was received by the Board on April 19, 2017. It has not been updated to reflect the new changes.

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

The evolution of this property over the years has been a change from a small beach house on dune land to a large house that has a highly maintained turf lawn and landscaping with ornamental, non-native vegetation (pictures will be sent under another cover). The Board permitted the substantial expansion of the beach house with specific conditions as mitigation for the increased use of the property.

The scenic easement requirement of the last determination is pertinent to this application because it involves the very area that the applicant is proposing to install the pool. Part of the mitigation in the 2006 approval for the substantial addition and variances was to protect the remaining natural features on the property. The Board felt the remaining natural features would best be protected with a scenic easement. In the language of the scenic easement that had been drawn up, it states that "the burdened premises shall not be mowed or maintained, and the burdened premises shall in all other respects remain in their natural state in order to maintain their present character and appearance. In the 2006 determination the conditions also specified that the establishment of turf lawn or ornamental vegetation was prohibited. The conditions specifically required that the applicant replant any areas disturbed by construction with native shrubs and beach grass. No establishment of turf lawn or ornamental landscaping vegetation was permitted. It appears these conditions of the permit were not adhered to. There may have been some areas of lawn prior to the new construction, however, the aerial photographs indicate that much of the vegetation around the construction site was extensively disturbed during construction. What exists now is a well established turf lawn which appears to have been re-planted or re-seeded post construction. Also, the shrubs and trees around the house are non-native ornamental plants and not the beach grass, beach plum, and bayberry specified in the conditions of the permit.

Over the course of this application several projects have been proposed. In the most recent proposal the applicant has located the pool, pool equipment and new sanitary system so that the need for any variances has been eliminated. The revegetation plan has not been updated to reflect this most recent proposal. The applicant prior to or at the hearing should submit a new revegetation plan that provides greater detail concerning access to the pool from the house. Is the stone patio going to be rebuilt If so will the patio serve as the main access to the pool

The Planning Department does not support the application as proposed. The project does not allow room for the previously required scenic easement, a depth of 30 ft. The Planning Department is also concerned that the extensive clearing and excavation needed to install a pool, the removal of a shed and brick patio, and the clearing of invasives will permanently alter the last remaining natural features on the property. In and of itself the Planning Department is generally supportive of controlling invasive plants and planting native plants. However, the beach vegetation is an important component in retaining the Town's rural beach character and has an ecological benefit for wildlife and storm water absorption. In any functioning ecosystem there are millions of invertebrates, fungi, bacteria and other organisms within the habitat that go unseen or un-noticed but none-the-less are vital to its functionality. Clearing, digging, grading, and then landscaping with native plants does not equally replace habitat. The Board approved a very large house addition conditioned that a scenic easement would be established to protect the remaining natural features on the property. In addition, any areas disturbed by the construction were to be planted with native plants. Neither of these conditions were met.

The Board needs to consider the NRSP standards in order to issue a permit. And the Board needs to consider the last determination. The applicant got the benefit of the large house

addition without complying with the mitigations the Board specified for the increased intensity of use on dune land with beach vegetation and a portion of the property within 150 ft. of freshwater wetlands. The pool, if granted, will preclude any scenic easement. The Board needs to determine if the proposed project will degrade or diminish the natural resource as a result of clearing, planting and maintaining this area.

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 October 30, 2017 adapted from the approved Saskas Surveying survey dated revised August 16, 2017. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged, deteriorated or upon request of the Building Department or a delegate of the Zoning Board of Appeals.
- b. Prior to the issuance of a building permit, the Board, or their delegate, shall inspect the project limiting fencing for proper installation.
- c. The clearing of vegetation and the filling, grading or recontouring of the property shall be strictly limited to the boundaries established by the Board.
- d. The sanitary system should be approved by Suffolk County Department of Health Services in an approved location and to their specifications. Documentation of such should be provided prior to the issuance of a building permit.
- e. The Dune land soils excavated for any approved structures shall be retained on site and used for backfill and top dressing to facilitate the retention of the dune land character and the recolonization of disturbed areas with indigenous dune land species.
- f. 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.
- g. The establishment of turf, lawn, sod or ornamental vegetation should be prohibited.
- h. All structures should be situated at least 2 above the seasonal high groundwater table.
- i. The swimming pool should utilize a chlorine reducing sanitation system and all pool water should be discharged into a drywell located at least 100 from the wetlands on the survey.
- j. A copy of the Natural Resources Special Permit and the approved survey and building plans shall be available on the parcel at all times.

D. Grand Leopard Murial the First LLC

TIME: 7:50:00 PM

APPLICANT: Grand Leopard Murial the First, LLC

SIZE/LOCATION: 5.621 acres (total), 17 Association Road, Wainscott (300-200-03-15)

DESCRIPTION: Not applicable.

RELIEF SOUGHT: An Appeal of the Principal Building Inspector pursuant to 255-8-30A(1) of the Town Code. Appellant seek to challenge the May 1, 2017 issuance of building permit # 64322.

ZONING DISTRICT: A5 Residence AE Flood Zones, elevation 9' & 13' & X Flood Zone

SEQRA CLASS: Type II

IV. WORK SESSION:

V. EXTENSION OF TIME:

A. John Minutillo

SCTM# 300-80-1-9.1

10 Cross Street, Springs

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

B. Wendy Levine

SCTM# 300-35-2-4

44 Hedges Banks

East Hampton

Extension of Time request to obtain a Certificate of Occupancy

C. Michael Ajello

SCTM# 300-19-8-22.1

19 Fenwick Road

Montauk

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

D. Philip Tripi

SCTM# 300-30-3-3

7 Brisbane Road

Montauk

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

VI. POSSIBLE ADMINISTRATIVE APPLICATIONS:

A. Thomas Schnepf

SCTM# 300-51-1-4

28 Seaview Avenue

Montauk

Request for a Natural Resources Special Permit for a pool, fence and sanitary system within jurisdiction.

VII. BOARD DETERMINATIONS:

A. *O'Donoghue*

SCTM# 300-5-3-12

33 Mulford Avenue

Montauk, NY

Request for Certification of Occupancy has led to verification that the applicant can bypass Modification process -

B. *Miller*

SCTM# 300-94-1-4

175 Three Mile Harbor Road

East Hampton

Request for Certificate of Occupancy - Planning Dept. memo addressing Board's clarification on whether or not Certificate can be issued s

VIII. BOARD DECISIONS:

A. *Richard Pollack Trust*

SIZE/LOCATION: 12,351 sq. ft., 45 Sherrill Road, East Hampton (300-186-02-14)

DESCRIPTION: To construct a 120 sq. ft. golf cart garage within side yard lot line setbacks and

outside the maximum allowable lot coverage.

RELIEF SOUGHT: One variance of 2.5 is required from 255-11-10 of the Town Code to construct the garage 12.5 from the side yard lot line where a 15 setback is required. One variance of

90 sq. ft. from ?255-11-10 of the Town Code is required to have 2,560 sq. ft. of Lot

Coverage where 2,470 sq. ft. is the maximum allowable, and any other relief necessary.ZONING DISTRICT: B Residence Zone X Flood Zone

SEQRA CLASS: Type II

B. Adam Freed

SIZE/LOCATION: 23,763 sq. ft., 30 Woodpink Drive, Settlers Landing: Section Three, Lot No. 246, Map No. 5304, East Hampton (300-055-05-11)

DESCRIPTION: To allow an approximately 144 sq. ft. greenhouse to remain within rear yard setbacks

and outside of the Town's pyramid restrictions.

RELIEF SOUGHT: A variance from 255-11-10 (Table III) and any other relief necessary. The following variance s required: A 2.8 variance is required to allow the greenhouse to remain 7.2

from the northern (rear) lot line where a 10 setback is required.

ZONING DISTRICT: B Residence, X Flood Zone

SEQRA CLASS: Type II

C. William T. Bailey III

SIZE/LOCATION: 7,021 sq. ft. (total), 71 Navy Road, Montauk (300-027-02-7.1)

DESCRIPTION: To raise the existing residence from approximately elevation 7.6 to elevation 12 and

to construct additions of 52 sq. ft. and 19.11 sq. ft. within jurisdiction of freshwater wetlands, outside the towns pyramid line, and within side yard lot line setbacks.

RELIEF SOUGHT: Four variances and a Natural Resources Special Permit pursuant to 255-4-20 of the East Hampton Town Code are required for this application. Variances of 4 10 and

approximately 18 9 from 255-11-72D of the Town Code are required allow the

western addition and raise the existing residence to be 4 10 and 18 9 outside of the

Town's pyramid regulations along the western side yard and southern rear yard lot

lines. One variance of 35 from 255-4-30 is required to allow the additions to be

constructed approximately 65 from freshwater wetlands where a 100 setback is

required. One variance of 3.73 is required from 255-11-10 to construct the western

addition 11.27 from the western side yard lot line where a 15 setback is required, and

any other relief necessary.

ZONING DISTRICT: A Residence AE Flood Zone, elevation 10

SEQRA CLASS: Type II

7/18/2017

IX. MINUTES APPROVAL:

A. *January 9th 2018*

B. *January 23rd 2018*

C. *January 30th 2018 - Cancelled Meeting*

Cancelled Meeting

X. RESOLUTIONS

A. *Zwirko*

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

GREGORY ZWIRKO

SCTM # 300-174-05-23 & 24

HEARING DATE: November 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 SAVARESE, Legislative Secretary

TYLER BORSACK, Planning Department

BRITTON P.D. BISTRIAN, 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 Lys of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION:

To construct a 1,428 sq. ft. residence with attached shed, approximately 209 sq. ft. brick terrace, walkway, sanitary system with retaining wall, driveway, and to clear vegetation within jurisdiction and setbacks of wetlands and beach vegetation.

2. RELIEF OR APPROVAL SOUGHT:

Four variances and a Natural Resources Special Permit pursuant to ?255-4-20 of the East Hampton Town Code are required for this application. Variances of 61.7? and 34? are required from ?255-4-30 of the Town Code to construct the residence with attached shed and brick terrace 38.3? and 76?, respectively, from freshwater wetlands where a 100? setback is required. One variance of 73.5? is required from ?255-4-30 of the Town Code to construct the sanitary system 76.5? from freshwater wetlands where a 150? setback is required. One variance of 39? is required from ?255-4-30 of the Town Code to allow clearing

to within 11? of freshwater wetlands where a 50? setback is required, and any other relief necessary.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 22,296 sq. ft. (total)
2. STREET LOCATION: 12 Napeague Lane
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Amagansett
5. FILED MAP NAME: Beach Hampton - Section 1
6. FILED MAP NUMBER: 1203
7. DATE OF MAP FILING: May 13, 1936
8. BLOCK NUMBER IN FILED MAP: 1
9. LOT NUMBER IN FILED MAP: 6-15 inclusive
10. SUFFOLK COUNTY TAX MAP DESIGNATION: 300-174-05-23 & 24

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

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

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

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The subject property is currently unimproved with no Certificate of Occupancy (C.O.) on file. All of the proposed structures can be seen on the George Walbridge Surveyors, P.C. survey dated last revised November 27, 2017, and stamped received by the Zoning Board on December 4, 2017. The corresponding building plans were prepared by Greg Zwirko, dated November 1, 2016, and stamped received by the Zoning Board on March 22, 2017. The proposed project consists of a 1,428 sq. ft. two story residence, an 888 sq. ft. first floor with 540 sq. ft. partial second floor, with attached shed, approximately 209 sq. ft. brick terrace, sanitary system with retaining wall, driveway, and approximately 9,032 sq. ft. of clearing. The property has not appeared before the Zoning Board previously.

2. The subject property is located on the west side of Napeague Lane, between Montauk Highway and Marine Boulevard in Amagansett. The property is constrained by freshwater wetlands in the middle of the property close to Napeague Lane. These wetlands are part of a large wetland and dune land system that extends eastward between Montauk Highway and the ocean along the entire Napeague stretch. Some parts of this system are protected within parkland and blocks of reserved area. However, older developments such as Beach Hampton and the adjoining Seaview at Amagansett were drawn without regard to these valuable natural features. The habitat, water quality and flood control properties of such wetland systems have been well documented and are very familiar to the Zoning Board. The juxtaposition of land and water provides a rich habitat for many native plants, fish, and wildlife. Wetlands very often support some of our rarest species and the wetlands of Napeague function as a migration stopover for birds from outside East Hampton. In addition, wetlands absorb and store floodwaters and improve water quality. In times of drought, wetlands slowly release water at a rate that can be absorbed to raise the water table and fill streams and ponds. When water leaves a wetland, it is cleaner and needs less chemical treatment to be suitable for human use. When wetlands are degraded by encroachment, water quality declines and fish, and bird populations are affected, and the severity of floods could increase. The Zoning Board, as required by the Town Code, has made a consistent effort to provide the maximum protection for the Town's freshwater wetland and dune land systems. This effort has significantly helped to protect the Town's natural biodiversity as well as the character of our residential neighborhoods.

3. 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 as the proposed construction will be harmonious with other homes within the subject neighborhood. No neighboring property owners spoke in opposition to the proposed project at the public hearing or submitted letters in opposition to the Board.

4. Due to the extensive wetlands on the subject parcel, 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 proposed construction will occur in the best locations possible on the highly constrained lot.

5. The Board finds that although the requested variances may be considered substantial, they are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the area variances. The applicant has made significant strides to the project in order to minimize any potential impact to the neighborhood and the environment. Following public hearing, applicant revised the project to include a I/A sanitary system located farther from the wetlands.

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. The mitigation measures set forth below will offset the impacts of the proposed project.

7. 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).

8. 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.

9. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The total coverage will be 1,759 sq. ft., well below the 10,599 sq. ft. permitted for the subject parcel.

10. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties because the proposed project is in keeping with the neighborhood and no impact to adjacent properties is anticipated the proposed project. The proposed project does not require any front, rear, side yard setback variances or relief from pyramid regulations.

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.

12. 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 wetlands will be protected during construction by the installation of sediment control fencing. The proposed driveway will be composed of a water-pervious quartz gravel surface. The sanitary system will be an innovative alternative septic system that is not expected to have any effect on the wetlands on the parcel. The project is designed to maximize the distance to the wetlands and minimize impervious surfaces on the property.

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

G. DISPOSITION OF APPLICATION

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

1. RELIEF OR APPROVAL GRANTED:

Four variances and a Natural Resources Special Permit pursuant to §255-4-20 of the East Hampton Town Code are granted. Variances of 61.7' and 34' are granted from §255-4-30 of the Town Code to construct the residence with attached shed and brick terrace 38.3' and 76', respectively, from freshwater wetlands where a 100' setback is required. One variance of 73.5' is granted from §255-4-30 of the Town Code to construct the sanitary system 76.5' from freshwater wetlands where a 150' setback is required. One variance of 39' is granted from §255-4-30 of the Town Code to allow clearing to within 11' of freshwater wetlands where a 50' setback is required, and any other relief necessary.

2. DESCRIPTION OF WORK APPROVED:

To construct a 1,428 sq. ft. residence with attached shed, approximately 209 sq. ft. brick terrace, walkway, sanitary system with retaining wall, driveway, and to clear vegetation within jurisdiction and setbacks of wetlands and beach vegetation.

H. CONDITIONS OF APPROVAL

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

1. APPROVED SURVEY: Prepared by George Walbridge Surveyors, P.C., dated last revised November 27, 2017, and stamped received by the Zoning Board on December 4, 2017.
2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by Greg Zwirko, dated November 1, 2016, and stamped received by the Zoning Board on March 22, 2017.
3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:
 - a. Sediment control fencing consisting of staked straw bales with silt mesh fencing shall be erected along the northern proposed clearing line to prevent erosion and sedimentation. 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. 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 shall have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin shall be made available for inspection by the building inspector prior to backfill.
 - 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 driveway shall be composed of only of a clean, local, water-pervious quartz gravel surface.

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

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

- h. Applicant shall apply for and obtain a Certificate of Occupancy no more than eighteen (18) months from the date of filing of this determination.

- i. A copy of the Natural Resources Special Permit, building plans and the approved survey, 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

ROY DALENE, Member

THERESA BERGER, Member

Dated: January 30, 2018

cc: Building Department
Planning Department
Britton P.D. Bistran, Agent for Applicant

B. Strandkorb

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

STRANDKORB, LLC

SCTM #300-131-7-4.1

HEARING DATE: December 5, 2017

PRESENT: 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
LISA D'ANDREA, Planner
BILLY HAJEK, 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 Lys of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION:

To demolish the existing 2,600 sq. ft. residence and construct a 3,075 sq. ft. two story residence with a 589 sq. ft. garage, a 315 sq. ft. pool and 998 sq. ft. of patio, decking and walkways on a parcel of dune land with beach vegetation.

2. RELIEF OR APPROVAL SOUGHT:

A Natural Resources Special Permit (NRSP) pursuant to ? 255-4-20 of the Town Code.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 15,104 sq. ft. (total)
2. STREET LOCATION: 67 Shore Road
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Amagansett
5. FILED MAP NAME: Montauk-On-Sea Lots
6. FILED MAP NUMBER: 2438
7. DATE OF MAP FILING: September 1, 1955
8. BLOCK NUMBER IN FILED MAP: N/A
9. LOT NUMBER IN FILED MAP: 118 & 120
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-131-7-4.1

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 255-5-50 (Natural Resources Special Permit) and 255-5-51 of the Town Code.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The premises are on the landward side of Shore Rd. in the subdivision known as Montauk-On-Sea. It is improved with a two story residence with a garage underneath. The original house was constructed prior to zoning. Construction of a 252 sq. ft. addition and a 300 sq. ft. deck in 1985 was determined not to require a NRSP. The most recent Certificate of Occupancy (CO) was issued February 24, 2009. It states that the residence is one story but the survey attached to the CO labels the residence as two story. The residence is clearly a two story structure and the estimated square footage of the habitable space is approximately 2,600 sq. ft. All existing and proposed structures are depicted on Saskas Surveying survey dated revised June 14, 2017. Building plans by SLR Architects dated June 27, 2017 were received by the Board on July 18, 2017.

2. A lot inspection conducted in 2015 indicated that the dune land around the existing house was somewhat disturbed. However, the western third of the property the dune land has protected beach vegetation and dune land. The lot inspection specified that a NRSP would be required for any further disturbance to the land. It appears that the applicant has made an effort to design the project so as to minimize the disturbance in the western portion of the property which contains the beach vegetation and dune land habitat characteristics. The area where the new sanitary system is proposed is vegetated primarily with *Rosa rugosa* which can be considered naturalized but none-the-less is not a native species.

3. The house is proposed to be demolished and the new house will be located in roughly the same location. However, the applicant is also proposing a 598 sq. ft. detached garage, a pool and a 998 sq. ft. patio area in addition to replacing the house. The building coverage will almost be doubled and will only be 5 sq. ft. under the maximum allowed. The total lot coverage will increase from 22% to 35%. Permitted Gross Floor Area (GFA) is 3,110 sq. ft. The proposed GFA is 3,075 sq. ft. or about 35 sq. ft. below the maximum allowed. The proposed clearing for construction activities will be slightly less than the maximum permitted. An extensive revegetation is proposed post construction but it will result in 6% more clearing than exists now. The new sanitary system being proposed will be an environmental improvement.

4. Following receipt of the Planning Department's Technical Analysis Memorandum dated September 11, 2017, the applicant submitted a revised revegetation plan in order to address the Planning Department's concerns regarding the proposed vegetation. The revised plan is dated October 18, 2017.

5. Montauk-on-Sea is a beach community subdivision located in a B Residential zone. It is comprised of pre-existing non-conforming lots that are substandard in regards to lot size. According to the Planning Department's technical analysis memorandum, this project is an aggressive redevelopment of the property.

6. The Board must determine if the project complies with the general standards of ? 255-5-40 for the issuance of a special permit. Town Code ?255-5-51 (Specific standards and safeguards for natural resources special permits) paragraph C stipulates that the project must be found to be compatible with the purposes set forth in ? 255-1-11 (Purposes of zoning) and ? 255-4-10 (Purposes of protection of natural resources) of the Town Code. The Board finds, when considering the record and information provided at public hearing that this application as proposed does not meet the standards set forth in the Town Code for issuance of a Natural Resources Special Permit.

7. The Board finds that the lot area is not sufficient, appropriate or adequate for the proposed improvements. The Planning Department notes in its Technical Analysis Memorandum that the building coverage will almost be doubled and will only be 5 sq. ft. under the maximum allowed. Additionally, the total lot coverage will increase from 22% to 35%. These increase in coverage exceed the capacity for this substandard lot with extensive natural features such as beach vegetation and dune land habitat characteristics.

8. The majority of the Board finds that the use in the proposed application will not maintain the established character of the neighborhood, nor does it contribute to the orderly growth of the neighborhood as required pursuant to ?255-1-11 of the Town Code. The Board finds, as noted by the Planning Department, that this application is an aggressive redevelopment on an environmentally sensitive parcel. The Board particularly notes that the overdevelopment of the property is not consistent the surrounding properties, which are all substandard as to lot size and contain dune land habitat. The Board notes that the surrounding properties consist of mostly soft scape, while the applicant here is proposing mainly hardscape.

9. The majority of the Board finds that the characteristics of the site are such that the proposed use may not be introduced without undue disturbance or disruption to important natural features. Applicant?s sprawling design with large scale grading and extensive hard surfaces will negatively impact the natural features and overburden the substandard lot. Applicant is proposing a building coverage that is only 5 sq. ft. below the maximum allowed. The building coverage percentage does not consider any natural features on the property and proposing a project that in only 5 sq. ft. below the maximum does not consider the environmental sensitivity of this substandard property.

10. The majority of the Board finds that the proposed project does not meet standard set forth in ?255-5-51D of the Town Code because there are alternative designs that would limit the hard surfaces on the property and thereby minimize the overall detrimental impacts to the surrounding neighborhood. A residence with smaller footprint and limited accessory structures would be more appropriate design for the lot as this design would minimize the hard surfaces and lessen detrimental impacts to the land.

11. The majority of the Board finds that the application does not meet the requirements for the requested Natural Resources 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 DENIED:

A Natural Resources Special Permit (NRSP) pursuant to ? 255-4-20 of the Town Code.

2. DESCRIPTION OF WORK DENIED:

To demolish the existing 2,600 sq. ft. residence and construct a 3,075 sq. ft. two story residence with a 589 sq. ft. garage, a 315 sq. ft. pool and 998 sq. ft. of patio, decking and walkways on a parcel of dune land with beach vegetation.

ALL CONCUR:

CATE ROGERS, Vice-Chair

ROY DALENE, Member

THERESA BERGER, Member

Dated: January 30, 2018

cc: Building Department
Planning Department
Billy Hajek, Agent for Applicant

C. Mack

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

NANCY MACK

SCTM # 300-26-01-9.1

HEARING DATE: December 19, 2017

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

ALSO PRESENT: ELIZABETH L. BALDWIN, ESQ., Counsel to the Board
 DENISE SAVARESE, Legislative Secretary
 LISA D'ANDREA, Planning Department
 JOEL HALSEY, 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 Berger of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION: To construct 1,572 sq. ft. of additions, a 513 sq. ft. covered porch, a 580 sq. ft. northern patio, a 690 sq. ft. southern patio, a 300 sq. ft. southern covered porch, and a 180 sq. ft. roof deck on a parcel of land with bluffs.

2. RELIEF OR APPROVAL SOUGHT: A Natural Resources Special Permit and two variances from ? 255-4-40 (coastal setbacks) pursuant to ? 255-4-20 of the Town Code and any relief necessary. Variances of 78.6 ft. and 56 ft. to respectively construct the deck and residential addition 72.4 ft. and 94 ft. from the bluff crest where a minimum 150 ft. setback is required.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 111,461.6 sq. ft. (total)
2. STREET LOCATION: 132 Navy Road
3. CONTIGUOUS WATER BODIES: Block Island Sound
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: #300-026-01-9.1

C. ZONING INFORMATION

1. ZONING DISTRICT: A Residence
2. ZONING OVERLAY DISTRICT: Coastal Erosion Overlay Zone 3

D. SEQRA DETERMINATION

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

E. STANDARDS FOR BOARD REVIEW

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

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

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

- a) the benefit to applicant from grant of the requested variance outweighs any detriment which grant of the variance will cause to the general health, safety, and welfare of the neighborhood or the Town as a whole; and
 - b) the variances sought are the minimum variance necessary and adequate to alleviate the difficulty causing applicant to request an area variance, while at the same time preserving and protecting the character of the neighborhood and the general health, safety, and welfare of the Town as a whole.
4. The Board finds that grant of the instant application will be consistent with the requirements of both Town Law ? 267-b and Town Code ? 255-8-50.

F. ADDITIONAL FINDINGS AND CONCLUSIONS

1. The subject property is currently improved with a two story residence and concrete patios erected before the adoption of zoning. It appears that the stairway access to the beach was also constructed prior to zoning. It is visible in a 1983 aerial photograph of the property. It is not clear how many times the stairway has been repaired or rebuilt over the years. However, from examining the more recent aerials, it appears the stairway was reconfigured and reconstructed between 2011 and 2016. The Town records indicate that no permits were attained for the rebuilding of the stairway.
2. In 2007, a building permit was issued for a 960 sq. ft. pool. In that same year another building permit was issued for 1,350 sq. ft. first floor and 950 sq. ft. of second floor interior alterations. The most recent Certificate of Occupancy (CO) issued on December 7, 2007 reflects the pool and interior alterations. The applicant has owned the property since 2005. All existing and proposed structures are depicted on a James P. Walsh L. S. survey dated revised May 15, 2017 and received by the Board on June 30, 2017. The building plans for 132 Navy Rd. project by Robert Young Architect PLLC dated June 19, 2017 were also received by the Board on June 30, 2017.
3. The premises are contiguous with Block Island Sound with a residence that is 100% pre-existing non-conforming. The existing residence has a gross floor area (GFA) of 3,145 sq. ft. and the maximum allowable expansion is 1,572 sq. ft. The applicant is before the Board for a NRSP and two variances to construct exactly 1,572 sq. ft. of additions as well as add two covered porches, two patios, and a roof deck. The applicant is proposing to remove a portion of the existing residence on the seaward side of the house and replace it with a covered porch. The new addition and the main part of the house will be situated 94

ft. from the bluff crest. The proposed patio will be seaward of the addition and approximately 72.4 ft. from the bluff crest. Because of the topography and natural grade, some of the main house will be considered basement and another portion will be at least four feet above grade and considered a first story. The addition will have a full basement of 1,122 sq. ft. The building plans label this the "lower level" (pg. A101). The "lower level" project will consist of 1,572 sq. ft. of basement and 240 sq. ft. of first floor. What is labeled as the "main floor" on the building plans (pg. A102) is the level that the 1,030 sq. ft. of first story addition, along with the 513 sq. ft. northern and 300 sq. ft. of southern covered porches, and a 580 sq. ft. northern and a 690 sq. ft. southern patio will be constructed. The "upper floor" plan is the level that includes the 792 sq. ft. of second story to the addition, the roof deck, and sedum roofs. The sedum plantings will be part of the roofs over the covered porches.

4. The clearing as depicted on the survey submitted with this application is not accurate. The existing clearing estimated from the 2016 aerial is about 65,000 sq. ft. This property is about 14,000 sq. ft. overcleared. The clearing that exists on the property is not entirely pre-existing non-conforming. The estimated clearing calculated from the 2004 aerial is about 51,000 sq. ft., considered the maximum clearing allowed. Some clearing along the bluff crest also took place since 2004. Between 2004 and 2007 it appears a new driveway was constructed that required clearing. The driveway configuration was changed again sometime between 2010 and 2013 and lawn was established in areas that had been uncleared. The clearing calculated from the 2013 aerial is estimated at about 70,000 sq. ft. or just about the entire area landward of the bluff crest. It appears since 2013 that about 5,000 sq. ft. of maintained lawn in a sloped area has been allowed to naturalize. The Board notes that the Planning Department has recommended that the clearing come into compliance with the maximum clearing allowed which is 51,000 sq. ft.

5. The Board finds that granting the requested variances does not cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The residence with additions, porches and patios will be in conformance with other homes along Navy Road. No affected property owners spoke against the instant application at the public hearing or submitted letters in opposition to the Zoning Board.

6. The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested area variances. Due to non-conforming location of the existing residence and the topography of the subject parcel, it is not possible to construct the proposed additions in a conforming location.

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

8. The Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The proposed project may actually improve the environmental conditions on the parcel as the project includes the removal of a seaward portion of the residence, the applicant will revegetate the parcel, including the bluff crest, with native vegetation to bring it into compliance and will remove the existing wire fence. The Board notes that the existing sanitary system meets the 150' required setback.

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

10. The Zoning Board finds the nature of the proposed use will be in harmony with and will promote the general purposes of the Town of East Hampton Zoning Law as described by § 255-1-11 of the Town Code. Specifically, the proposed project will improve the environmental conditions on the subject parcel by upgrading the sanitary system, removing impervious surfaces, installing drywells to capture runoff and construction a more stable residence.

11. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The applicant has requested bluff crest setback variances only. No clearing, rear, front, side yard or pyramid variances are requested for the proposed project.

12. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties as no impact to adjacent properties is anticipated from the construction of the proposed project. The proposed project is relatively modest and is not expected to interfere with the enjoyment of neighboring properties.

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

14. The Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features. No detriment to the bluffs is expected as the proposed additions will not be any closer than the existing residence. No further grading of the parcel is required to complete the

proposed project and the parcel will be revegetated to bring it into conformance with clearing regulations.

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

G. DISPOSITION OF APPLICATION

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

1. RELIEF OR APPROVAL GRANTED:

A Natural Resources Special Permit and two variances from ? 255-4-40 (coastal setbacks) pursuant to ? 255-4-20 of the Town Code are granted. Variances of 78.6 ft. and 56 ft. are granted to respectively construct the deck and residential addition 72.4 ft. and 94 ft. from the bluff crest where a minimum 150 ft. setback is required.

2. DESCRIPTION OF WORK APPROVED:

To construct 1,572 sq. ft. of additions, a 513 sq. ft. covered porch, a 580 sq. ft. northern patio, a 690 sq. ft. southern patio, a 300 sq. ft. southern covered porch, and a 180 sq. ft. roof deck on a parcel of land with bluffs.

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 an updated survey depicting the existing and proposed improvements prior to the issuance of a building permit for this project.

2. APPROVED BUILDING OR CONSTRUCTION PLANS: Prepared by Robert Young Architect PLLC dated June 19, 2017 were also received by the Board on June 30, 2017.

3. APPROVED PLANNING DEPARTMENT SKETCH: Dated September 5, 2017, and adapted from the James P. Walsh, survey, dated last revised May 15, 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 September 5, 2017, to limit land disturbance. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged or 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 property shall be brought into compliance in regards to clearing. A revegetation plan that indicates the locations, species, size and spacing shall be submitted to the Board for approval prior to the issuance of a building permit. The plan shall be implemented and inspected by the Board or their delegate prior to the issuance of a Certificate of Occupancy.

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

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

 - f. 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.

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

I. VALIDITY OF APPROVAL

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

ALL CONCUR:

JOHN P. WHELAN, Chairman

ROY DALENE, Member

THERESA BERGER, Member

Dated: February 6, 2018

cc: Building Department

Planning Department

Joel Halsey, Agent for Applicant

D. Shea

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

WILLIAM SHEA and

THE WILLIAM SHEA 2013 TRUST

SCTM #300-177-01-22

HEARING DATE: December 5, 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 A. SAVARESE, Legislative Secretary
TYLER BORSACK, Planner
JONATHAN TARBET, 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 Lys of this Board.

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION:

To construct a 300 sq. ft. swimming pool with approximately 250 sq. ft. of pool patio and walkway within jurisdiction and setbacks of freshwater wetlands and dune vegetation.

2. RELIEF OR APPROVAL SOUGHT:

Two variances and a Natural Resources Special Permit pursuant to ?255-4-20 of the East Hampton Town Code are required for this application. Variances of 16? and 20? are required from ?255-4-30 of the Town Code to construct the swimming pool 84? and pool patio 80? from freshwater wetlands where 100? setbacks are required, and any other relief necessary.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 10,128 sq. ft. (total)
2. STREET LOCATION: 65 Beach Avenue
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Amagansett
5. FILED MAP NAME: Beach Hampton - Section 3
6. FILED MAP NUMBER: 1287
7. DATE OF MAP FILING: June 28, 1939
8. BLOCK NUMBER IN FILED MAP: 3
9. LOT NUMBER IN FILED MAP: 20 through 22 inclusive
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-177-01-22

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 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 255-5-50 (Natural Resources Special Permit) and 255-5-51 of the Town Code.
2. 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.?
3. The standards set forth in Town Code ? 255-8-50 (D) paraphrase the requirements language of Town Law ? 267-b 3:

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

b) the variance sought is the minimum variance necessary and adequate to alleviate the difficulty causing applicant to request 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 granting the instant application will not 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 1,400 sq. ft. two story residence with associated decking. The most recent Certificate of Occupancy was issued on December 30, 2016 for a ?683 sq. ft. first floor, 704 sq. ft. second floor, frame, single family residence having one kitchen only, containing a total of three bedrooms only with 64 sq. ft. utility room 64 sq. ft. storage room; 92 sq. ft. second story deck, 168 sq. ft. front deck and 438 sq. ft. rear deck?. All of the proposed structures can be seen on the Gary Benz, L.S. survey dated last revised October 18, 2017, and stamped received by the Zoning Board on December 5, 2017.

2. The property is located within the Beach Hampton area of Amagansett. The Beach Hampton area is composed of numerous non-conforming lots. These lots were established in the early 1900?s for cottage style summer residences. The parcel in question is of sub-standard size for a B-Residential zoning district at 10,128 sq. ft. The wetlands located to the north of the property represent an important ecological characteristic of the Beach Hampton area. In addition to diversifying the landscape, the wetlands within Beach Hampton play a significant role in the storage of water and flood control. Certain areas of Beach Hampton have seen chronic flooding over the years, which can be attributed to a high ground water table and increases in impervious surfaces combined with rain events. Beyond flood control, the wetlands are an important part of the habitat of a variety of wildlife species.

3. The applicant is proposing a 300 sq. ft. swimming pool with approximately 250 sq. ft. of stone patio with a small walkway between the existing decking and the proposed pool. The swimming pool is proposed 87? from the wetlands to the northwest with the proposed patio 83? from the edge of the freshwater wetlands. The clearing associated with the proposed construction is all dune land vegetation and accounts for an additional 860 sq. ft. of clearing, from 2,500 sq. ft. to 3,360 sq. ft. The swimming pool and patio are located up against the required 20? setback from the northern and southern side yard lot lines.

4. The Planning Department urged in its Technical Analysis Memorandum dated September 8, 2017 (the "TAM") for the Zoning Board to look closely at the amount of disturbance required to construct the swimming pool and patio. The Planning Department noted:

The major concern on this application is the high quality dune land to the rear of the property and the Board should examine and discuss if they are comfortable with this level of disturbance or if a smaller swimming pool would be more appropriate for the constraints of the property. Approving this pool could set a precedent for other comparable properties in the area and the Board should discuss if they are comfortable with approving similar applications on similarly constrained properties.

The wetlands that the project is within setbacks of is located on a Town-owned property with a residence situated between the proposed project and the wetlands. There is no location available on this property that is outside of a 100' setback from the wetlands and that also meets the required 20' side yard lot line setbacks.

5. The Board finds that granting the requested variances will cause an undesirable change to the character of the neighborhood or create a detriment to nearby properties. The character of this neighborhood, Beach Hampton, is defined by substandard lots established in the early 1900's for cottage style summer residences. Vital to the characteristics of the area are the wetlands and dune land vegetation. The Planning Department noted in its TAM that the northern wetlands "represent an important ecological characteristic of the Beach Hampton area. In addition to diversifying the landscape, the wetlands within Beach Hampton play significant role in the storage of water and flood control." Granting the requested variances would negatively impact the established character of the neighborhood as there appears to be no pools within setback jurisdiction of this wetlands. Moreover, an aerial view of Beach Avenue reveals that there appears to be no pools on any of the lots, and therefore, the Board is concerned of the precedent set for Beach Avenue by granting the requested relief.

6. The Board finds that the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the requested area variances. While the Board acknowledges that any pool on this lot would require variances either wetland or dimensional, the Board finds that a smaller pool, requiring significantly less clearing would be a more appropriate alternative for this property.

7. The Board finds that while the variances themselves are not substantial the impacts to the neighborhood. As there are no other swimming pools in on this road, adding a pool would have as substantial impact to the character of the neighborhood.

8. The Board finds that granting the requested variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. While the impact of runoff created by the pool may be minimized by the installation of drywells, no mitigation has been suggested by the applicant that would offset the negative impacts to the physical conditions of Beach Avenue. The only pool in the area appears to be outside of the wetland setbacks and is located on a much larger lot that is part of a completely different subdivision. Moreover, the tennis court referenced by the applicant was granted in 1957 as part of the Map of Sea Bluff subdivision, depicted on the filed map as "Reserved for Community Tennis Court". The tennis court is for use by the lot owners within the subdivision and is not owned exclusively by any adjacent property owner. Moreover, the tennis court was constructed prior to Natural Resource Special Permit regulations.

9. The Board finds that the need for the variances is self-created. Applicant purchased the property with current natural resource requirements in place and there are no other pools on Beach Avenue that should have lead applicant to believe that pools are customary.

10. The Board finds that the benefit to the applicant does not outweigh the detriment which grant of the variances would cause to the general health, safety, and welfare of the neighborhood or the Town as a whole.

11. Pursuant to the Town Code, in order to be entitled to the grant of a Natural Resources Special Permit an applicant must show that he has satisfied the general standards contained in Town Code § 255-5-40 as well as the specific standards contained in the Natural Resources Special Permit sub-section in § 255-5-50.

12. The Board finds that the use in the proposed application will not maintain the established character of the neighborhood. The Board finds that the proposed pool, even as reduced from its originally proposed size, will detrimentally impact the established character of the neighborhood. Applicant focused review of the neighborhood failed to note the lack of pools on Beach Avenue and the supporting evidence was limited to a community tennis court which was approved pursuant to 1957 subdivision and one pool which is located in an incomparable subdivision. Beach Avenue and specifically the properties near the subject property area defined by the wetlands and dune land vegetation. An aerial view of the area depicts that the limited accessory structures on these substandard parcels have maintained the large swaths of dune land vegetation, which define this area of Amagansett. The proposed pool would clearly disrupt the existing dune land vegetation and detract from the established character of Beach Avenue.

13. The Board finds that the proposed use will prevent the orderly and reasonable use of adjacent properties because pools are not customary accessory structures on Beach Avenue.

14. The Board finds that the characteristics of the site are such that the proposed use may not be introduced without undue disturbance or disruption to important natural features. The excessive clearing required to construct the pool will disturb the natural features of the site. Further, the existence of the proposed pool, as evidenced by aerials and site photos taken by Member Lys, will negatively impact the extensive dune land vegetation stretching through rear yard of the lots on the east side of Beach Avenue.

15. The Board finds that the application does not meet the requirements for the requested variance or Natural Resources Special Permit because the variance requested is not the minimum variance necessary to alleviate the difficulty causing the applicant to request the variance.

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 DENIED:

Two variances and a Natural Resources Special Permit pursuant to ?255-4-20 of the East Hampton Town Code are denied. Variances of 16? and 20? are denied from ?255-4-30 of the Town Code to construct the swimming pool 84? and pool patio 80? from freshwater wetlands where 100? setbacks are required.

2. DESCRIPTION OF WORK DENIED:

To construct a 300 sq. ft. swimming pool with approximately 250 sq. ft. of pool patio and walkway within jurisdiction and setbacks of freshwater wetlands and dune vegetation.

ALL CONCUR:

JOHN WHELAN, Chair

ROY DALENE, Member

THERESA BERGER, Member

Dated: February 6, 2018

cc: Building Department
Planning Department
Jonathan Tabet, Agent for Applicant

E. Thomas Wandzilak

ZONING BOARD OF APPEALS

TOWN OF EAST HAMPTON

In the Matter of the Application

of

DETERMINATION

THOMAS WANDZILAK

SCTM # 300-32.1-01-226

HEARING DATE: December 19, 2017

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

ALSO PRESENT: ELIZABETH L. BALDWIN, ESQ., Counsel to the Board
DENISE SAVARESE, Legislative Secretary
LISA D'ANDREA, Planning Department
THOMAS WANDZILAK, Applicant

FINDINGS OF FACT AND DETERMINATION OF THE BOARD

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

A. PROJECT DESCRIPTION

1. PURPOSE OF APPLICATION: To replace an existing 463 sq. ft. manufactured home and decking with a new 925 sq. ft. manufactured home and new decking, and to relocate an existing 63 sq. ft. shed on a parcel of land within 150 ft. of wetlands.

2. RELIEF OR APPROVAL SOUGHT: A Natural Resources Special Permit pursuant to ?255-4-20 and three variances from ? 255-4-30 (Wetland setbacks). Variances of 82.4 ft., a 83.9 ft. and a 70 ft. are required to, respectively, relocate a shed, install a mobile home, and a deck 17.6 ft., 16.1 ft., and 30 ft. from the freshwater wetlands where a minimum 100 ft. setback is required.

B. PROPERTY SIZE & LOCATION

1. LOT SIZE: 2,823 sq. ft. (total)
2. STREET LOCATION: 826 East End Drive - Unit 826
3. CONTIGUOUS WATER BODIES: N/A
4. HAMLET OR GEOGRAPHIC AREA: Montauk
5. FILED MAP NAME: Montauk Shores Condominium
6. FILED MAP NUMBER: 80
7. DATE OF MAP FILING: March 22, 1982
8. BLOCK NUMBER IN FILED MAP: Unit 826
9. LOT NUMBER IN FILED MAP: N/A
10. SUFFOLK COUNTY TAX MAP DESIGNATION: #300-32.1-01-226

C. ZONING INFORMATION

1. ZONING DISTRICT: Resort
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 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.

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 Montauk Shores Condominium complex is occupied as "mobile home park," which is a residential use pursuant to the Code's use tables [255-11-10A(9)], located in a Resort Zoning District. Variances from the Zoning Board have periodically been required for natural resource and area setbacks within the "mobile home park". Although the complex is a condominium complex and therefore implies separate ownership of the individual units, these units are not recognized as separate parcels by the Town or Suffolk County Department of Health Services, which consider the premises as one parcel. The applicant is before the Board to replace a 463 sq. ft. mobile home with a 925 sq. ft. mobile home. The new deck will be roughly the same size as the existing deck. There is an existing shed that is only 8.6 ft. from the wetland and it is to be relocated 17.6 ft. from the wetland. All existing structures are depicted on a George Walbridge Surveying survey dated last revised March 3, 2017, and stamped received by the Zoning Board on May 9, 2017. The proposed structures are depicted on a George Walbridge Surveying survey dated revised August 10, 2016 and received by the Board on September 23, 2016.

2. The coverage and total coverage calculations on the George Walbridge Master Plan of Montauk Shores Condominium survey originally surveyed on February 23, 1987 were in need of being updated. There was no unified system recording change of coverage and total coverage as individual units were replaced with new structures. In an effort to rectify any inaccuracies moving forward, a new survey of Montauk Shores Condominium complex was done. A new Master Plan of Montauk Shores Condominium by George Walbridge Surveyors was completed that updated the lot coverage and total lot coverages. Each proposed change to a unit size is now documented so that lot coverage and total lot coverage are kept current and will not be exceeded. The maximum lot coverage and total lot coverage maximum limits are still below the limits permitted. While coverage and total coverage changes are now being systematically recorded on the Master Plan Montauk Shores Condominium, there has been no unified system recording the changes in the mobile home units as they are enlarged or replaced in regards to the sanitary system that services the mobile homes.

3. Over the years Montauk Shores Condominium (MOSHO) has made numerous applications to Suffolk County Health Department Service (SCHDS). They had applications in 1990, 1993 and 1998 which involved a recreational center. In 2008, MOSHO applied for two half baths in connection to the recreation center. These bathrooms were to be tied into the existing sanitary system. MOSHO received preliminary approval for the bathrooms in February of 2009, however, the final approval was never issued. The open permit applies to the entire sanitary system. There has been an effort by the Town to look into the adequacy of the sanitary system. There have been many building permits for larger mobile homes issued without any systematic recording of these increases in regards to the capacity of the existing sanitary system. MOSHO was asked to provide the documentation that there was a final approval for the 2008 permit. After this request, it appears that MOSHO did finally

submit final plans to the SCHDS in the fall of 2016. An email dated December 20, 2016 from SCDHS to Natural Resources Director Kimberly Shaw stated that the SCHDS rejected the MOSHO final plans on December 13, 2016. So the permit remains open to date. The Montauk Shores Condominium sanitary system that services the individual mobile homes and was designed to handle up to 26, 534 gallons per day (gpd). The flow rate for each mobile home is gauged on its size. A unit 600 sq. ft. or less has a flow rate of 150 gpd. Mobile homes 601 -1200 sq. ft. have a flow rate of 225 gpd. Any home larger than 1200 sq. ft. is rated at 300 gpd. Most of the mobile home units are in the 600-1200 sq. ft. range. There are only a few that are less than 600 sq. ft. Seven units are over 1,200 sq. ft. The Planning Department tallied up 198 units that combined have a flow rate of up to 43,425 gpd. That is approximately 16,901 gpd over maximum flow the current system was designed to handle. Water quality issues are a serious problem for town waters and it has been determined that sanitary systems contribute to the degradation of groundwater and surface waters.

4. The wetlands essentially run along the entire eastern property line of MOSHO. Water flows generally from north of Deforest Road southward, eventually reaching the Atlantic Ocean. The wetlands that border the eastern MOSHO lot line are highly disturbed and have invasive species such as phragmites, multiflora rose, and Asian bittersweet. Along the eastern edge of MOSHO, south of the applicant's lot, the land has been cleared, has maintained lawn and appears to have some boats stored on it. To the south of this lawn area are 11 lots with mobile homes. Towards the interior of the wetlands higher quality native vegetation is present. Despite the disturbance along the edges, these wetlands are vitally important for attenuating flood waters, absorbing pollution carried in stormwater runoff, and for providing essential wildlife habitat for many species.

5. 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 new mobile unit and relocated shed will be in conformance with other mobile homes within the Montauk Shores community and will not interfere with the enjoyment of neighboring parcels.

6. The Board finds that the benefit sought by the applicant cannot be achieved by some method feasible for the applicant to pursue other than the requested variances. The subject parcel is oddly shaped, creating only a small area where improvements may be made. The new mobile home will be no closer to the wetland and there appears to be no more conforming location for the mobile home or deck. The shed will be moved further away from the wetlands, increasing its setback.

7. The Board finds that the requested variances are not substantial and are the minimum variances necessary and adequate to alleviate the difficulty causing applicant to request area variances. The new mobile home will have the same setbacks as the existing residence and the setbacks for the shed will increase. The Montauk Shores Condominium lot coverage and total lot coverage will still be below the maximum square footage allowed.

8. The Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The new mobile home, decking and shed will not be any closer to the wetlands than the existing mobile home and are not expected to cause a detriment to the wetlands located in proximity to the subject parcel.

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

10. The Board finds that the requested variances are the minimum variances necessary and adequate to alleviate the difficulty causing the applicant to request the variances. The project as proposed is relatively modest in size and any harm to the surrounding environment is not anticipated.

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

12. The Board finds the lot area to be sufficient, appropriate and adequate for the proposed improvements. The proposed mobile home will meet all side, front and rear yard setbacks and will not require any relief from pyramid regulations.

13. The Board finds that the proposed use will not prevent the orderly and reasonable use of adjacent properties because the proposed project is in keeping with the neighborhood and no impact to adjacent properties is anticipated.

14. The Board finds that adequate provision can and will be made for the collection and disposal of stormwater runoff from the proposed addition and accessory structure, as the Board will require that all roof runoff will be directed by leaders and gutters into one or more catchment basins.

15. The Board finds that the characteristics of the site are such that the proposed use may be introduced without undue disturbance or disruption to important natural features.

No detriment to the wetlands is expected by the construction of the new mobile home and deck or the relocation of the existing shed.

16. The Board finds that the site of the proposed mobile home, decking and shed are suitable ones for the location of such a use in the Town.

17. The Board finds that the proposed project, constructed in accordance with the proposed mitigation measures set forth below promotes the public interest in adequately preserving the wetlands.

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

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

G. DISPOSITION OF APPLICATION

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

1. RELIEF OR APPROVAL GRANTED:

A Natural Resources Special Permit pursuant to ?255-4-20 and three variances from ? 255-4-30 (Wetland setbacks) are granted. Variances of 82.4 ft., a 83.9 ft. and a 70 ft. are granted to, respectively, relocate a shed, install a mobile home, and a deck 17.6 ft., 16.1 ft., and 30 ft. from the freshwater wetlands where a minimum 100 ft. setback is required.

2. DESCRIPTION OF WORK APPROVED:

To replace an existing 463 sq. ft. manufactured home and decking with a new 925 sq. ft. manufactured home and new decking, and to relocate an existing 63 sq. ft. shed on a parcel of land within 150 ft. of wetlands.

H. CONDITIONS OF APPROVAL

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

1. APPROVED SURVEY: Prepared by George Walbridge Surveyors, P.C. survey dated last revised August 10, 2016, and stamped received by the Board on February 7, 2017.
2. APPROVED BUILDING OR CONSTRUCTION PLANS: N/A
3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:
 - a. An Article 24 Freshwater Wetland permit or statement of non-jurisdiction shall be obtained from the New York State Department of Environmental Conservation (NYSDEC) prior to the issuance of a building permit for this project.
 - b. Prior to the issuance of a building permit for this project, Montauk Shores Condominium must provide the Building Department with documentation that the existing sanitary system meets current Suffolk County Health Department (SCHD) standards.
 - c. The mobile home shall be furnished with gutters and leaders to direct stormwater from roofs into one or more catchment basins. Said catchment basin or basins shall have a combined volume (in cubic feet) equal to the surface area of the roof (in square feet), divided by six. Said catchment basin shall be made available for inspection by the building inspector prior to backfill
 - d. Prior to the issuance of a Certificate of Occupancy the improvements shall be depicted on the Master Survey of Montauk Shores Condominium along with an update of the coverage calculations
 - e. Applicant shall apply for and obtain a Building Permit no more than thirty-six (36) months from the date of filing this determination.

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

g. A copy of the Natural Resources Special Permit and the approved survey 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 WITH REGARD TO THE ISSUANCE OF AN 83.9 FT. VARIANCE AND A 70 FT. VARIANCE TO INSTALL A MOBILE HOME AND A DECK 16.1 FT. AND 30 FT. FROM THE FRESHWATER WETLANDS WHERE A MINIMUM 100 FT. SETBACK IS REQUIRED:

JOHN P. WHELAN, Chairperson

ROY DALENE, Member

THERESA BERGER, Member

CONCURRING WITH REGARD TO THE ISSUANCE OF AN 82.4 FT. VARIANCE TO RELOCATE THE EXISTING SHED 17.6 FT. FROM THE FRESHWATER WETLANDS WHERE A 100 FT. SETBACK IS REQUIRED:

JOHN P. WHELAN, Chairperson

ROY DALENE, Member

DISSENTING WITH REGARD TO THE ISSUANCE OF AN 82.4 FT. VARIANCE TO RELOCATE THE EXISTING SHED 17.6 FT. FROM THE FRESHWATER WETLANDS WHERE A 100 FT. SETBACK IS REQUIRED:

THERESA BERGER, Member

Dated: February 6, 2018

cc: Building Department
Planning Department
Applicant