



**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 July 31, 2018  
East Hampton, New York**

**I. CALL TO ORDER**

6:30 PM Meeting called to order on July 31, 2018 at Town Hall Meeting Room, 159 Pantigo Road, East Hampton, NY.

<b>Attendee Name</b>	<b>Present</b>	<b>Absent</b>	<b>Late</b>	<b>Arrived</b>
Chairman John P. Whelan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Theresa Berger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Roy Dalene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Samuel Kramer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Board Member Tim Brenneman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**II. CANCELLED PUBLIC HEARING:**

**III. SCHEDULED PUBLIC HEARINGS:**

**A. *My Wife Really Likes It***

**PUBLIC HEARING NOTICE**

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Town of East Hampton, NY, will hold public hearings at the Town Hall, 159 Pantigo Road, East Hampton, N.Y., on Tuesday, July 31, 2018 on the following applications at the times indicated:

**TIME:** 6:30:00 PM    **APPLICANT:** My Wife Really Likes It, LLC

**SIZE/LOCATION:** 4.6 acres (approx. total), 1 Association Road, Wainscott (300-200-03-08)

**DESCRIPTION:** To remove approximately 8,900 sq. ft. of common reed (*Phragmites australis*) from the surface waters of Georgica Pond including the excavation and backfill up to 36" of pond bottom containing the rhizomes (roots) of the reeds.

**RELIEF SOUGHT:** A Natural Resources Special Permit (NRSP) pursuant to ? 255-4-20 of the Town Code and any other relief as may be necessary.

**ZONING DISTRICT:** A5 Residence AE Flood Zone, elevation 10' & 11', X Flood Zone

SEQRA CLASS: Unlisted

**i. Technical Analysis Memorandum**

Note: This document shall not be considered official until and unless it has been signed by the responsible official of the lead agency.

TOWN OF EAST HAMPTON NEW YORK 11937  
 ENVIRONMENTAL ASSESSMENT FORM  
 PART II (to be completed by Lead Agency)

TOWN REVIEWING AGENCY:  
East Hampton Town Zoning Board of Appeals

<b>Lead Agency:</b>	(non-coordinated review)	
<b>Planner:</b>	Brian Frank <i>BF</i>	
<b>Date completed:</b>	July 20, 2018	
<b>SEQRA class:</b>	Unlisted	<b>Site Plan</b>
<b>Physical Location:</b>	1 Association Road	<b>Sub Waiver</b>
<b>School District:</b>	Wainscott	<b>Subdivision</b>
<b>Zoning District:</b>	A5 Residence	<b>Special Permit</b>
<b>Overlay District:</b>	Harbor Protection Overlay District	<b>Zone Change</b>
<b>Tax Map Number:</b>	300-200-03-08	<b>Variance</b>
<b>Applicant:</b>	My Wife Really Likes It, LLC C/o Land Use Ecological 570 Expressway Drive Medford, NY 11763	<b>Natural Resources</b>
		<b>Special Permit: XX</b>
		<b>Other:</b>
<b>Telephone:</b>	(631) 727-2400	
<b>FEMA ZONE:</b>	AE Flood Zone	
<b>Soil Type:</b>	Caver and Plymouth sands, 3 to 15 % slopes (CpC)	
<b>Map of Property:</b>	N/a	
<b>Size of Parcel:</b>	4.6 acres (approx. total)	

**Project Description:**

To remove approximately 17,800 sq. ft. of common reed (*Phragmites australis*) from the surface waters of Georgica Pond by repeated mechanical cutting over a 3-5 year time period.

**Relief:**

A Natural Resources Special-Permit (NRSP) pursuant to § 255-4-20 of the Town Code and any other relief as may be necessary.

**Property Conditions and History:**

The subject premises are improved with an approximately 12,000 sq. ft. two-story residence with various appurtenances such as a swimming pool and tennis court. Most of the improvements on the property were constructed pursuant to a 2005 building permit. Prior to the issuance of this permit, the improvements on the property consisted of a residence with an approximate footprint of 2,000 sq. ft. constructed prior to zoning. A new sanitary system appears to have been installed nearly 300' from the wetlands to serve the new construction; but a sanitary system located northwest of the residence and shown on the survey, possibly located as close as 40'-50' from the wetlands, appears to still serve the "original" residence. The most recent Certificate of Occupancy (CO) for all the improvement on the property was issued 2007 and a 2015 CO was issued for a bathroom addition.

The most recent survey depicting the existing conditions on the property was prepared by the Saskas Surveying Company, dated revised September 12, 2015. The property appears to have been acquired by the current owner of record as of November 2014. This property was the subject of a public hearing in the spring of 2017 to permit the removal of 8,900 sq. ft. of common reed using a combination of cutting and excavation. At the request of the applicant, the record for that proposal was left open indefinitely after the hearing and the project has been revised as noted in this project description. A permit for the excavation from the New York

**B. Foti**

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN, that the Zoning Board of Appeals of the Town of East Hampton, NY, will hold public hearings at the Town Hall, 159 Pantigo Road, East Hampton, N.Y., on Tuesday, July 31, 2018 on the following applications at the times indicated:

TIME: 6:50:00 PM APPLICANT: Frank Foti

SIZE/LOCATION: 22669.8 sf, 7 Freemont Road, Map No. 1019 Filed May 6th 1927, Montauk (300-019-06-

05.5)

DESCRIPTION: To construct a 512 sq. ft. pool with 448 sq. ft. of decking, and retaining wall, within jurisdiction of wetlands.

RELIEF SOUGHT: Natural Resources Special Permit for the construction of the pool within Jurisdiction of wetlands, pursuant to ? 255-4-20 of the Town Code.

ZONING DISTRICT: B Residence Zone X Flood Zone

SEQRA CLASS: Type II

**i. Technical Analysis Memorandum**

Technical Analysis Memo

Lead Agency: (not applicable)

Planner: Michael DeLalio

Date completed: May 30th 2018

SEQRA class: Type II

Physical Location: 7 Freemont Road

School District: Montauk

Zoning District: B residential

Overlay District: Water Recharge Overlay District

Tax Map Number: 300-19-6-5.5

Applicant: Frank and Carol Foti

Telephone:

FEMA ZONE:

C/o Land Planning Services

P.O Box 1313 East Hampton NY 11937

631 537 8500

Flood Zone X

Telephone (631) 324-2178

Fax (631) 324-1476

Site Plan

Sub Waiver

Subdivision

Special Permit

Zone Change

Variance

Natural Resources

Special Permit XX

Other:

Soil Type: Bridgehampton silt loam, till substratum 6 to 12 percent slopes, BHC

Montauk loamy sand, sandy variant 15-35 percent slopes

Map of Property: Map No. 1019 Filed May 6111 1927

Size of Parcel: 22,669.8 Sq. Ft.

Project Description: To construct a 512 sq. ft. pool with 324 sq. ft. of decking within jurisdiction of wetlands.

Relief Requested: Natural Resources Special Permit for the construction of the pool within jurisdiction of wetlands, pursuant to? 255-4-20 of the Town Code.

Property and History: The property is currently under construction for a 2 story frame dwelling with a driveway and enclosed back porch. The most current BP has been issued for

the property owners to build a "NEW SINGLE FAMILY RESIDENCE HAVING 4 BEDROOMS WITH 1591 SQ. FT. AT FIRST FLOOR, 891 SQ. FT. AT SECOND FLOOR, 504 SQ. FT. ATTACHED GARAGE, 450 SQ ... FT. COVERED PORCHES, 332 SQ. FT. DECK AT SECOND FLOOR AND 1195 SQ. FT. LOWER LEVEL IMPROVEMENTS CONTAINING

ONE OF HOMES FOUR BEDROOM TOTAL PER ADMINISTRATIVE N.R.S.P OF 6/2/14."

The most recent survey by James Walsh dated revised April 23rd 2018, received May 8, 2018

depicts the structures as inspected with the proposed additional pool, retaining wall, and pool equipment. Additionally received are the plans for the pool from HM engineering, P.C. dated 10/01/2017.

The Property has been in front of the Zoning Board a number of times in the past. The last determination in 2014 was to construct a 2432.78 sq. ft. two story residence including 504 sq. ft. attached garage, 449.52 sq. ft. of porches a 332.41 sq. ft. second floor balcony and new sanitary system within jurisdiction which was granted administratively, with the condition of a scenic easement beginning 50' from the wetlands which was accepted and recorded with Suffolk County as noted in the Building History on 9/16/14. Prior to that the parcel was in front of the board in 2008 for a 2,917 sq. ft. two story single family residence, covered porches, sanitary system and retaining walls, which was granted, and the Building Permit was issued but the work was never completed. Prior to that the property was before the board in 2002 for a 2,288 sq. ft. three story single family residence, a 700 sq. ft. third story deck and an 800 sq. ft. swimming pool within wetland jurisdiction as well as a height variance, this application was denied largely due to the height of the proposed project.

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

As noted above, the parcel is currently under construction for the house per the last NRSP that was approved administratively. There are wetlands to the south of the property that constitute an integral part of the natural environment, and more specifically, the hydrologic system. The New

York State Department of Environmental Conservation (NYSDEC) categorizes the wetlands as Class I, the highest quality rating for a freshwater wetland. In addition to diversifying the landscape these wetlands play a significant role in the storage of water, flood control, and the maintenance of water quality. The wetlands are an important component for the habitat of a variety of wildlife species. Additionally, these wetlands serve as groundwater recharge or

discharge areas. The vegetation helps to intercept non-point pollutants such as sediments, suspended and dissolved solids, nutrients associated with fertilizers and other chemical compounds that adversely affect the water quality. The root system of the vegetation helps to stabilize the slopes, minimizing the risk of erosion from precipitation and helps to retain and dissipate water during periods of flooding.

The property located within the Water Recharge Overlay District of Montauk, and a total lot size of 22,012 sq. ft. is limited to 10,000 sq. feet total, the parcel is currently cleared to

13,431sq. ft. and existing past the proposed clearing line in the last determination per condition "c) the clearing

of vegetation and grading shall be strictly limited to the boundary; depicted on the James P. Walsh L.S. survey dated revised 1/16/2014." The DEC permit approved the same clearing line on the property as the Administrative Natural Resources Special Permit from the Planning Department. As a condition of the DEC permit for the construction of the house they required a permanent

stockade, chain link or split rail fence along the clearing line. Currently the split rail fence exists beyond the clearing line approved and should be relocated to the approved location of the clearing line approved by both the DEC and the Planning Department.

The previously approved survey the proposed clearing was 9,776 sq. ft. This project shows a proposed final clearing of 9,643 square feet. The final clearing number is just under the maximum allowable clearing in the Water Recharge Overlay District. It is the recommendation of the Planning Department that should the property be granted a Natural Resources Special Permit, a revegetation plan be submitted for approval, to account for final clearing number and that all areas disturbed by construction of the pool be revegetated with native species, and implemented and inspected prior to the issuance of a Certificate of Occupancy.

The location of both the pool, pool equipment, retaining wall and decking meet all setbacks. The closest structure to the wetlands appears to be the south west side of the pool deck scaled to be approximately 108' from the wetlands.

The Planning Department finds that the project itself could be significant without the proper mitigation and its effects on the wetlands could be detrimental to a sensitive area. In addition to the revegetation plan the Planning Department suggests, project limiting fencing and reinforced

sediment control fencing to be placed at the existing and proposed clearing line to limit additional clearing during construction, swimming pool should utilize a chlorine reducing sanitation system, and the pool be discharged to a dry well, pursuant to 255-11-89D as shown in the received pool plans by HM engineering, P.C. It is the burden of the Board to find if the project complies with the NRSP standards of 255-5-51 of the Town Code.

#### Recommended Project Conditions:

a. Project limiting fencing consisting of 4' plastic safety shall be erected concurrent with the clearing boundary approved by the Board in the location depicted on the attached Planning Department sketch dated 5/17/18 adapted from the approved survey to limit the clearing of vegetation and land disturbance. The fencing shall be maintained for the duration of construction activities and replaced as necessary when damaged, dislodged, and deteriorated or upon request of the Building Department or a delegate of the Zoning Board of Appeals.

b. Sediment control fencing consisting of staked straw bales shall be erected concurrent with the clearing boundary approved by the Board depicted on the approved survey in the location depicted on the attached Planning Department sketch dated 5/17/18 adapted from



the approved 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.

e. 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.

f. The stockade fence should be relocated to the approved clearing line referenced in the Administrative Natural Resources Special Permit dated 6/2/2014 and subject to inspection by the Board or their delegate prior to the issuance of a Certificate of Occupancy.

g. All structures should be situated at least 2' above the seasonal high groundwater table.

h. The swimming pool should utilize a chlorine reducing sanitation system and all pool water should be discharged into a dry well located at least 100' from the wetlands on the survey.

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

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.

## **IV. WORK SESSION:**

### **A. *DelPrado***

SCTM#: 300-23-3-4. 172 Waterhole Road, Springs. The purpose of this agenda item is to discuss a modification request, to allow 5 ft of bulkhead and 11 ft. of return to remain as shown on July 7, 2017 survey.

## **V. EXTENSION OF TIME:**

### **A. *J. Partners***

SCTM#: 300-31-2-14. 9 Hoppin Street, Montauk. The purpose of this agenda item is to obtain an extension of time in order to complete the conditions of approval.

## **VI. POSSIBLE ADMINISTRATIVE APPLICATIONS:**

### **A. *LWJ, LLC***

SCTM#: 300-074-05-30.5. 180 Springy Banks Road, East Hampton. The purpose of this agenda item is to discuss the removal of 257' of dilapidated bulkheading and construction of 25' of new return with a bluff restoration.

### **B. *Gavin Cook***

SCTM#: 300-152-2-28.4. 2 Castle Court, Amagansett. The purpose of this agenda item is to discuss demolishing existing pool, and patio, and to construct a new pool and patio.

## **VII. BOARD DETERMINATIONS:**

### **A. *Bungi Wungi***

SCTM#: 300-020-05-19.2. 72 Old West Lake Drive, Montauk. The purpose of this agenda item is for the board to make a determination.

### **B. *Passing Horse Farm***

SCTM#: 300-020-05-19.2. The purpose of this agenda item is for the board to make a determination.

### **C. *80 S. Essex***

SCTM# 300-52-1-9.2. The purpose of this agenda item is for the board to make a determination.

### **D. *Vanderveer***

SCTM#: 300-37-3-22. 580 Three Mile Harbor Hog Creek Road, Springs. The purpose of this agenda item is for the board to make a determination

### **E. *Schwartz***

SCTM#: 300-135-4-6.1. 1 Pheasant Woods Lane. The purpose of this agenda item is for the board to make a determination.

***F. Solar***

SCTM#: 300-133-1-40. 110 Merchants Path, Wainscott. The purpose of this agenda item is for the board to make a determination

***G. Dittmer***

SCTM#: 300-136-6-1.2, 2.1, 4, and 5.1. 5 and 7 Park Street and 621 Stephen Hands Path, East Hampton. The purpose of this agenda item is to discuss revision of determination.

**VIII. BOARD DECISIONS:**

**IX. MINUTES APPROVAL:**

**X. RESOLUTIONS**

**XI. New Section**

**XII. Documents**