

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

Due notice having been given, the public hearing of the Zoning Board of Appeals of the Village of Southampton was held in the Board room of the Municipal Building, 23 main Street, Southampton, NY on Thursday, June 28, 2007 at 7:30 pm.

Chairman Kevin Guidera was present along with Board members Richard McMahan, Daniel Guzewicz, Gerry Ferrara, and Robert Deviney.

Village attorney, Richard DePetris and Environmental Consultant, Chic Voorhis were both present as well.

Chairman K. Guidera opened tonight's meeting with adjournments.

Cases #2511A, 2517, and 2525 were adjourned.

MOTION by R. DeVinney, seconded by R. McMahan

To **adjourn** cases #2511a, 2517, and 2525.

On Vote: R. McMahan, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

**OLD CASES-**

On the application of **OLD FORT POND DREDGING PROJECT**, there was no one present and nothing in the file in regards to the case. Board took it off of the agenda.

On the application of **MEADOW LANE DEVELOPMENT LLC-96 MEADOW LANE \*WETLANDS PERMIT EXTENSION\***, the extension is granted until 9/1/08.

MOTION by R. McMahan, seconded by G. Ferrara

To **grant the extension** on the application of **MEADOW LANE DEVELOPMENT LLC**.

On Vote: R. McMahan, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

**PENDING CASES-**

On the application of **JAMES & CLARIEL MULHOLLAND**, 969 & 979 Meadow Lane, Stephen Angel and Rob Hermann (En-consultants) are present to represent the applicant. Mr. Angel submitted new calculations, grid, a letter of explanation and a new plan. An enlarged 1" equal's 20' scale survey was submitted. The wetlands boundaries are defined on the survey and revised upland area calculations are included on the survey and in the letter. Mr. Hermann stated that there will be 134 sq. ft that will physically be located in the wetlands area. The lot area preserved will be 163,892 sq. ft. He stated that moving the house to a non-wetland area (West) would move it closer to where the DEC and the village upland areas meet. They would then need variances from both the village

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

and the state codes. He discussed the differences between state and village definitions of wetlands. D. Guzewicz asked about test holes and stated that only one has been done and it was 2.3 ft. to ground water. Mr. Hermann stated that the ground water will be closer throughout entire property due to episodic flooding. R. DePetris asked where the color-coded survey differentiating the village and Dec wetlands lines is. Mr. Hermann stated that Squires & Holden blew up the survey to show the different line fonts. He stated that the east side is the only area where there is a difference between them. Mr. Hermann stated that 780 sq. ft of the proposed house are in the pocket, but 134 sq. ft actually physically are on it. C. Voorhis stated that he did not disagree with the characterization of wetlands of Mr. Hermann, but he feels that the survey is still difficult to read. He needs to see the amounts of fill that will be within the wetlands area. Both the lateral extent and volume of fill will be needed. R. Herman stated that the grading is 600 yards of fill within the confines of the retaining wall for elevating the sanitary systems. The notes at the bottom of the survey refer to all of this. D. Guzewicz stated that they need elevation of the retaining wall, how will it be finished, and will it look harmonious with the neighborhood. Measurements of all of this will be needed at some point. R. Hermann stated that much of what is being asked for is already in the file. C. Voorhis stated that they should review the information and get back to the applicant. R. DePetris asked that the survey be color-coded.

K. Guidera asked for comments from the audience.

Lisa Azzato, attorney for the neighbors stated that the neighbors would like to have an opportunity to look over everything that was submitted and respond to it.

No comments from Board.

MOTION by R. McMahon, seconded by R. DeVinney  
To **hold over for review** the application of **JAMES & CLARIEL MULHOLLAND**.  
On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **ELGIN PRUDER & MEGAN DARBY**, 64 Heady Creek Lane, Eric Bregman, attorney for the applicant is present. He stated that the numbers on the plans are incorrect and the applicant brought new plans with correct Gross Floor Area #'s. He submitted measurements and percentages of all conforming and non-conforming areas. He stated that the net addition is 1965 sq. ft., 642 of which is non-conforming. K. Guidera asked him if they are asking for a variance for decrease from 60' to 49.7' setbacks from the south. E. Bregman agreed and stated that this passes the 50 % rule. There was a revised architectural plan submitted to the file per R. DePetris' request.

No comments from the Board or audience.

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

MOTION by R. McMahon, seconded by R. DeVinney  
To **adjourn for decision** on the application of **ELGIN PRUDER & MEGAN DARBY**.  
On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **HERTER TRUST LLC**, 1610 Meadow Lane. Attorney, John Bennett is present for the applicant. He submitted affidavits of the reposted and re-mailed notices. He stated that this is a wetlands application dealing with septic systems. He submitted a table of the septic systems setbacks to the file. He stated that they propose to move two non-conforming septic systems and replace with one conforming and one non-conforming septic system. He stated that if the plans were built as approved now it would have three non-conforming systems. Part of the application for indoor swimming pool on easterly side of property has been changed to a hot tub. He withdraws the request for the swimming pool. Applicant would like to construct a westerly septic system to a wetland setback of 172 ft. He referred to a drawing from Steve Mureska and stated that the southeast will have a full conforming setback and the westerly side won't conform. He stated that the prevalent flow of ground water is to the south; so waste water won't travel to the wetlands areas. C. Voorhis stated that he went to the site and stated that the east side is where the lot was flagged by Inter-Science in 2005. There were more flags put in to define the new wetlands line. He stated that there is a discrepancy between the two plans of the leaching pools, septic systems, expansion pools, and setbacks. Squires & Holden shows setbacks. Both plans need to show setbacks and need to update the table. He stated that the trade off is clear in the paperwork.

No comments from the Board or the audience.

MOTION by R. McMahon, seconded by R. DeVinney  
To **adjourn for all purposes** on the application of **HERTER TRUST LLC**.  
On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **MARKUS HANSEN**, 34 Dale Street, William A. Slight, architect for the applicant is present. He stated that the amended site plan with the driveway and single curb cut should be in the file. They eliminated the circle driveway. K. Guidera asked about parking. W. Slight stated that there is one space in the garage and one in the turn around. K. Guidera stated that this needs to be shown on the plans. The two spaces needed should be shown because they need to decide if taking it from 0 spaces to 1 parking space and knocking out the curb cut is enough. R. DePetris stated that they are eliminating the northerly curb cut, the circular driveway and providing one conforming parking space.

R. DePetris read in to the record the decision. The subject parcel has a drop area of 11, 424 sq. ft.. Pursuant to the minimum side yard requirements based on the lot area of this

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

lot the minimum side yard requirement is 10 ft.. Applicant requests a side yard variance from the 10 ft to 7.91/2 ft in order to permit a proposed one car garage addition to the existing house as shown on the proposed site plan stamped received 6/13/07. due to the width of the subject parcel and the location of existing improvements and in view of the purpose of this addition which will provide an extra parking space in the garage and in view of the fact that the garage addition will be a one story addition which will conform with the pyramid law we find that the requested side yard variance is warranted under the applicable standards for an area variance. Therefore we grant the requested side yard variance subject to the condition that the existing northerly curb cut and the existing northerly portion of the circular driveway shall be removed. The resulting driveway will be as shown on the site plan stamped received 6/13/07.

MOTION by R. McMahon, seconded by R. DeVinney

To **enter the decision as written** on the application of **MARKUS HANSEN**.

On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **BRIAN BRADY & FRANCO BISCARDI**, 33 Layton Avenue, Gilbert G. Flanagan, attorney for the applicant is present. He stated that this is an application for a front yard variance to construct a swimming pool. Additional information has been submitted on 6/18/07 in to the file. The information consists of a letter, three sketches and revised survey. It eliminates the proposed patio. Screening and landscaping (stockade fence and arborvitaes) are added on the northerly side. The pool equipment will be moved further to the north and it will have screening to hide it. He feels that these are considerable improvements to the original application.

No comments from the Board or the audience.

R. DePetris read the decision into the record. This is an application for a front yard complete setback variance to 20 ft. on ? Alley in order to permit the proposed swimming pool as shown on the survey last revised 6/4/07. The revised survey also shows the location of the proposed pool equipment in a conforming location. Based on the information presented by the applicant and the public hearings including the information regarding the character of ? Alley and adjoining parcels and upon considering all relevant factors under the statutory standards for an area variance subject to the condition that the screening for proposed swimming pool and the proposed pool equipment shall be provided and shown on the plans submitted with and attached to the 6/18/07 letter from the applicants attorney.

MOTION by R. McMahon, seconded by R. DeVinney

To **enter the decision as written** on the application of **BRIAN BRADY & FRANCO BISCARDI**.

On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

On the application of **DAVID HERMER & SYLVIA CAMPO**, 37 Pond Lane, Eric Bregman, attorney for the applicant, and Sean Leonard, architect for the applicant are present. There are surveys on file as part of a packet received 6/19/07. There are percentages on the surveys; the existing house is 2563 sq. ft., 691 sq. ft of which is non-conforming. The addition is 1039 sq. ft., of which 562 sq. ft. are non-conforming. The total proposed sq. ft. will be 3602 sq. ft. and 1253 of which will be non-conforming. 35 % of the total proposed house is non-conforming. E. Bregman showed surveys of the V.F.W building next door to the north and he referred to aerial views and pictures from the street of other neighboring homes. The pictures were submitted to the file. On the new survey the proposed outside north stairway and entrance have been removed from plans. S. Leonard had submitted letters to the file discussing the retaining wall of the V.F.W and the impact of the construction on this. He stated that it is not a concern. The equipment will come up the existing driveway on the south side. D. Guzewicz wanted an explanation of the plan and preservation of the tree near driveway. He asked how will the trucks get up the driveway and where will they park. S. Leonard stated that after much review that is the only spot anyone can get up. They will access it by using a bobcat. D. Guzewicz asked how they are going to do a 9 foot basement with a bobcat. He asked if they are going to take all of the dirt from property and then return back to property and back fill. S. Leonard agreed that is what they will do. D. Guzewicz feels that taking the curb cut out and replacing after project done is a better option. He asked that they show methodology, parking for equipment and trucks, how fill is going to be brought in and all other details. R. DePetris stated that they need construction methodology and then the Board can decide what bond will be needed. The more information provided the faster the decision can be made. K. Guidera stated that the construction schedule, run-off, parking and materials needed all need to be presented. R. DePetris stated that they need multiple copies of southerly house survey.

No comments from the Board or the audience.

MOTION by R. McMahon, seconded by R. DeVinney

To **adjourn for all purposes** on the application of **DAVID HERMER & SYLVIA CAMPO**.

On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

**NEW CASES-**

On the application of MJR IV, LLC, 240 Gin Lane, Wayne Bruyn and Ed Hollander, landscape architect are present for the applicant. The affidavit of mailing and posting were submitted. An addendum with the application was submitted. Two surveys were submitted from Squires & Holden; one showing the existing conditions and the other showing the proposed conditions. The landscape and drainage plans prepared by Ed Hollander were also submitted. W. Bruyn stated that a front yard variance is needed, but

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

all setbacks are met. Applicant wants to put a 7200 sq. ft. tennis court to a front yard setback of 92 ft. from Gin Lane. The tennis court is proposed to be sunken and screened as required. He submitted an aerial photo showing subject property outlined and the typical tennis court as proposed in the proposed location. He referred to tennis courts in the neighborhood and stated that most do not meet the 90 ft. set back requirement. He referred to a tennis court to the west of the Bath & Tennis Club that is almost identical to the proposed plan. There will be no environmental impact and there is no other feasible location on the property. Supportive letters from the Bath & Tennis club and Mr. Alan (adjacent neighbors) were submitted. E. Hollander showed that the tennis court will be screened and not visible from the street. D. Guzewicz asked how many non-conformings are there on the property now. He would like all of this information and also how many bedrooms are there and thereby how much parking is needed. He also would like a copy of the Certificate of Occupancy. E. Hollander stated that the court will be sunken 3 ft. and surrounded by a brick retaining wall and lattice fencing on top and an evergreen hedge of 8 ft (11 ft. total screen). There will be 6, 4x8 drywells put in to handle drainage. The parking for 9 cars will be provided. This is shown on the drawings. There is one in the garage, one in the front, and seven other spots. He's not sure how many bedrooms there are. The trees between Mr. Alan and applicant's property will stay. W. Bruyn stated that Squires & Holden is working on a new septic system survey. He asked the Board that this be the only plan required for septic system. The Board agreed. K. Guidera stated that they need copies of the Certificate of Occupancy, number of bedrooms, how many non-conforming structures are there, and the new septic survey.

No comments from the Board or the audience.

MOTION by R. McMahon, seconded by R. DeVinney

To **adjourn for all purposes** the application of **MJR IV, LLC**.

On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **KENNEDY PARK GALLERY USA, LTD**, 616 Pasture Road, Gilbert G. Flanagan, attorney and Frank Greenwald, architect is present for the applicant. An affidavit of posting & mailing were submitted. G. Flanagan stated that he would like an extension of wetlands special permit. This is in order to demolish an existing single family dwelling and swimming pool and construct a 7183 sq. ft. two-story single family dwelling with 2259 sq. ft. of porches and an 1185 sq. ft. swimming pool within the required 150 sq. ft. setback from the wetlands and septic system within the required 200 ft. setback from the wetlands. He would like this before he leaves tonight. The summer of 2005 was the original wetlands permit, but because of difficulty with the DEC and making changes they need an extension. The DEC permit was submitted and is in the file. The Suffolk County Health Dept. approval issued on 5/07 is also on file. The foot print of the plan changes still need same amount of fill. The no-mow zone expansion is expanded further to the east as requested by the DEC. The scenic easement will still be

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

maintained. The current application has 11 bedrooms and there is a letter on file from the architect discussing total habitable space. There are really 5 rooms that will be used as bedrooms but still 10 parking spaces needed. The site plan is very similar to the original approved application. Inter-science has a colored plan of the existing approved plan and the proposed plan; all of which have been submitted. G. Flanagan stated that he would like the extension of existing wetlands permit and modification of previous permit to reflect plans shown to the Board tonight. He submits a survey showing 10 parking spaces. C. Voorhis stated that the garage on the new plan seems to be closer to the wetlands than approved on the prior plan. He will need an inter-science plan showing setbacks and showing whether there is a decrease in wetlands. R. DePetris stated that legally they can't extend the wetland special permit because the DEC may not approve of this. He stated for the record that requesting an extension before it expires is enough to protect the applicant in the future in regards to the wetlands special permit.

No comments from the audience or the Board.

MOTION by R. McMahon, seconded by R. DeVinney  
To **hold open for review** the application of **KENNEDY PARK GALLERY USA, LTD.**  
On Vote: R. McMahon, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

On the application of **JAMES COWLES**, 311 Gin Lane, Gilbert G. Flanagan, attorney for the applicant and Robert Morris were present. G. Flanagan submitted the affidavit for posting and mailing. This is an application asking for abandonment of non-conforming uses in order to permit a 799 sq. ft. detached accessory one-story second residence guest cottage to the northwest corner of subject property within a single family residence district. Photos and an engineers report are in the file. G. Flanagan stated that the ARB gave approval on 3/07 to demolish existing guest house and construct new improved guest house. The guest house will be constructed in a conforming location. The demolition commenced before the building permit was given. The site plan and building elevations were approved by ARB. The house, guest house and pool house were demolished. He submitted surveys of north and west properties. The guest house is proposed to be less than 800 sq. ft., not to exceed 16 ft. height, and will be in a conforming location. He stated that on file there is information about the non-access private road near the property and the fact that a structure can be closer to this than any other road. He stated that this is an oversized lot and a balance test would show negative impact is greatly offset by loss by the applicant. Tax maps showing the impact on neighbors is practically non-existent were submitted. This is a non-conforming use because it is habitable space, but it conforms in size and setbacks. D. Guzewicz stated that the septic system will have to conform,

No comments from the Board.

**ZONING BOARD  
VILLAGE OF SOUTHAMPTON  
JUNE 28, 2007**

When audience was asked for comments Amiel Gross, attorney representing the surrounding land owners submitted letters from Arthur Salzburger and Alison Cowles (neighbors) in opposition to the request. He stated that the dates to remember are 4/07 when guest house was demolished and 6/07 when application for variance was made to the Board. The neighbors are going to be impacted by the guest house. Its location is as far North and West as you can go. This does not comply with the law 116-19 which refers to nonconforming uses definition. There was no building, it was demolished. When the structure was demolished the land owner relinquished their right to reconstruct from the ground up. Neighbors need assurance that the private road will not be used. If this moved further from the neighbors properties this plan would be okay. A. Gross asked that this issue be open for further discussion and letters outlining opposition be entered in to the record. R. DePetris stated that this is a legal issue. The question is whether a non-conforming use is relinquished when it's demolished. If so, then the criteria for variance would be new variance criteria for this Board. He wants to look at different cases and informational on factual background. Is the property in the historic district? G. Flanagan stated it was. R. DePetris stated that he needs to know what was before the ARB and historic preservation. Also, the application states that the guest house was demolished before ARB for architectural and historical review. ARB approval suggests there may have been a building permit. They need to know exactly what was applied for before the demolition. Need to know legal issues. R. McMahan stated that they need survey of the property west of the Salzburger property. G. Ferrara asked that they show that visually you wouldn't see the structure from opposing neighbors. G. Flanagan stated that they will put what ever screening is needed.

MOTION by R. DeVinney, seconded D. Guzewicz  
To **adjourn for all purposes** the application of **JAMES COWLES**.  
On Vote: R. McMahan, D. Guzewicz, K. Guidera, R. DeVinney and G. Ferrara-AYE.

Respectfully Submitted by:

\_\_\_\_\_  
Candace Clanahan

File Date:\_\_\_\_\_

\_\_\_\_\_  
Village Clerk