

**ZONING BOARD OF APPEALS  
VILLAGE OF SOUTHAMPTON  
MARCH 28, 2019  
PUBLIC HEARING**

Due notice having been given, the public hearing of the Zoning Board of Appeals for the Village of Southampton was held in the Board room of the Municipal Building, 23 Main Street, Southampton, NY on Thursday, March 28, 2019 at 6:00 p.m.

Board members Chair Rob Devinney, Mark Greenwald, Kevin Guidera and James Zuhusky were present. Dan Guzewicz was absent.

Counsel for the Board Wayne Bruyn and were present. Environmental Planning Consultant Chic Voorhis was absent.

Chair Devinney opened the meeting.

**ADJOURNMENTS**

On the application of **AKIVA GOLDSMAN SEPARATE PROPERTY TRUST**, 1431 Meadow Lane, a letter was received requesting adjournment to the April 25, 2019 public hearing.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the applicants request for adjournment on the application of AKIVA GOLDSMAN SEPARATE PROPERTY TRUST.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **SPUR**, 630 Hampton Road, the applicant requests adjournment to the May 23, 2019.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the applicants request for adjournment on the application of SPUR.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **JOHN DANIELSON**, 30 Sanford Place, the applicant requests adjournment to the April 25, 2019 public hearing.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the applicants request for the adjournment on the application of JOHN DANIELSON.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **PHILIP EDWARDS**, 86 Pine Street, the applicant requests adjournment to the April 25, 2019 public hearing. James Zuhusky is recused from this application.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the applicants request for adjournment to the April 25, 2019 public hearing on the application of PHILIP EDWARDS.**

On Vote: Chair Devinney, M. Greenwald, and K. Guidera

Recused: J. Zuhusky

## **EXTENSIONS**

On the application of **472 FIRST NECK LAND LLC**, 472 First Neck Lane, there is a letter in the file requesting extension.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the applicants request for extension on the application of 472 FIRST NECK LANE LLC.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

## **PENDING DECISIONS**

On the application of **ODED NACHMANI**, 1471 Meadow Lane, there is a written decision in the file.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the written decision on the application of ODED NACHMANI.**

On Vote: Chair Devinney, D. Guzewicz, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **ANTHONY ALBANESE**, 64 Armande Street, there is a written decision in the file.

MOTION by K. Guidera, M. Greenwald

**To approve the written decision on the application of ANTHONY ALBANESE.**

On Vote: Chair Devinney, D. Guzewicz, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **MCDONALD'S USA LLC**, 307 North Sea Road, there is no written decision in the file.

On the application of **JAMES GLEASON**, there is a written decision in the file. James Zuhusky is recused from this application.

MOTION by K. Guidera, seconded M. Greenwald

**To approve the written decision on the application of JAMES GLEASON.**

On Vote: Chair Devinney, M. Greenwald, and K. Guidera

Recused: J. Zuhusky

## **PENDING CASES**

On the application of **REDCRAFT LLC**, 420 Ox Pasture Road, present for the applicant was John Bennett. This application is for relief for a tennis court on a three-acre lot in the physical front yard. It will be the NW portion of the property; the parcel is unusual in shape but is conforming in area. They proposed location is 90' from Captain's Neck Lane, it is a conforming setback for accessory structure, and 119' from Ox Pasture Road, they comply with dimensional requirements. He showed an aerial photo that depicted the neighborhood, it reflects cases in the vicinity that had Board approval. Those lots that showed the past favorable decisions were highlighted. He has a letter of support from Linda Huber, she is the neighbor to the East. J. Bennett submitted a copy of the survey with photos of existing conditions. They are requesting not to sink the court because they have historic brick walls they would like to

preserve. However, they will sink it if the Board requires as part of the decision. As required, they also will be going before the Planning Board.

P. Guillot, the landscape architect, stated they purposely placed the court within the walls. They hope to maintain that wall structure.

J. Bennett noted that Alan and Sandra Friedman submitted a letter in opposition to the court, however, they have a tennis court on a non-conforming lot, and it has been there since the early 1990's, it abuts his client's bedrooms. In the letter they stated that they sought variance approval from the Board but had been denied and placed the tennis court in a location that did not require variance. He has copies of their previous denials; their request for relief was more aggressive.

J. Bennett feels it is a common and minor request for this area and he feels it should be granted. Chair asked is it possible the ARB will request to remove those walls? J. Bennett is not sure, he doesn't think that the Village requires sinking, but they usually desire it. Chair stated that if they ask to remove the North wall, they can move it 20' away from the Friedman property. J. Bennett stated that they could do that. Counsel Bruyn stated that the Planning Board requires screening and needs the landscape plan. Second, he stated that the Village Trustees adopted laws but kept the provision to have the ZBA review the corner lot approvals. Chair asked if the wall is a plus for the neighborhood; J. Bennett and P. Guillot feel it is a plus. Chair feels that it is attractive and that they should retain it but if other Boards require the removal then they should move to 90'. J. Bennett asked if the decision can get written in a way to provide that he won't be going back and forth between Boards. There is no ARB jurisdiction for tennis court approval; it will be before the Planning Board noted Counsel.

Alan Friedman was present, neighbor, they responded by letter to this application. They are long term residents. About 25 years ago they decided to build a tennis court, they had only one location to construct a court, and they removed an existing pool to do so. Their bedroom is 55' from the proposed tennis court. They worry about tennis balls leaving the court and hitting their house and Ox Pasture Road. He feels it will decrease the value of their property. They do not want adverse effects on the neighborhood. They can construct a court on the NE section, since it is a 3-acre parcel. He showed an alternate location on an existing survey. He states that Mrs. Huber is not opposed because she has a road between her and the neighbor. Chair stated that it seems their bedroom is 65' from the tennis court not 55'. Chair stated that if the tennis balls were to leave the court and land on the road it would be terribly errant. Chair asked if he anticipates a lot of complaints from the community regarding the construction of this court; A. Friedmann feels it is not in character with the neighborhood. K. Guidera stated that there are courts that are close to the road in the neighborhood, the shape of the lot puts them in a difficult spot to build away from the road. Counsel asked if the other location will still need a variance? J. Bennett noted that yes, a variance would still be necessary in the other location. He asked what they think of the walls? A. Friedman thinks they are hazardous for play on a tennis courts.

Sandra Friedman stated that it is a hardship because it is so close to their bedroom, people play early and late in the day. She thinks this could be a precedent as well. They feel there are options for this homeowner regarding placement. Counsel asked about the hedge between regarding height and species; it is 10' privet. Also, there is a same hedge along Captains Neck Lane.

J. Bennett stated that the alternate location would require relief as well. It would require a side yard variance as well. Chair stated that if the garage had to be moved it would be moved to the area where the proposed tennis court would be. The garage could be closer to the property line. J. Bennett doesn't

think it is a reasonable request to ask the owner to reorient the entire property. If they make them take walls down, they can move it closer to Ox Pasture. K. Guidera asked Counsel if the decision can be written two ways regarding keeping the walls. Counsel stated that yes, the decision can be written to reflect the situations.

MOTION by K. Guidera, seconded M. Greenwald

**To close for written decision on the application of REDCRAFT LLC.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

## **NEW CASES**

On the application of **SL II 405 LLC**, 405 Captains Neck Lane, affidavits of mailing and posting were submitted. Present for the applicant is Jim Walker from Inter-Science. He spoke to Mr. Voorhis yesterday and there were comments given which are not shown on those plans, so they need to be adjourned for their plans to be revised. The plans are the results of the Army Corp of Engineers and Town of Southampton regulations; the plans are correct for the Town and show reflect the new blue book, however, the Army Corp requires 4', there is a discrepancy between the local and Federal. C. Voorhis wants the kayak rack moved landward, there is an existing dock and it had DEC and BOT permits. They are valid but the dock does not meet the Federal criteria, it needs to be 15' from the property line, they are at 10'. They cannot place it in the same exact area since it is not conforming to the new regulations. They go 12' out into the water; it is shallow water dock, doesn't have mooring piles or floats. It's a dock like ones used in Sagg Pond. The existing dock needs replacement because the material used is rotting and they need an Army Corp of Engineers approval. The stair down was used for the DEC; however, he feels that stairs down are not practical. They don't do that anymore, they have a platform and a ladder down to get into the kayak. The Board of Trustees has not issued a permit, DEC not issued permit, nor the Army Corp of Engineers. They have pending applications for all four necessary agencies. Counsel asked if this design will meet their standards; he feels yes.

MOTION by K. Guidera, seconded M. Greenwald

**To adjourn for all purposes on the application of SL II 405 LLC.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **MERCEDES COUNIHAN**, 21 Hillcrest Avenue, affidavits of mailing and posting were submitted. Present for the applicant was herself. S. Lemanski was supposed to be present but is away on vacation. She is seeking relief for her setbacks, it was her belief that she was between two codes at the time, her setbacks are off by 2' on each side. She is requesting relief of a front set where 25' is required; a total side yard setback of 24' where 32' is required and an eastern side yard setback of 5.9' where 15' is required. The existing house was demolished with a permit, but the foundation was put in ahead of a building permit because it was built in the same footprint and she didn't realize it would need variance.

The option for her is to come before this Board or cut off 8', she would cut off the South side if she had to do it. She's hoping not to have to do that. It is the same footprint as what was existing. Counsel asked if the Building Department told her that she needed relief for Pyramid? She stated that Pyramid is not an issue. She stated she doesn't have a Building permit right now. Chair stated that they have had recent issues with doorways leading to pools, they are concerned that it goes right out at 6' with the pool so close to the exit door. She can shrink down the size of the pool or provide extra fencing around the pool. M. Greenwald asked if the pool is in; M. Counihan answered no. He stated that she may have

room to shift, however, they think shrinking the pool is the best option. Parking is also an issue, it is 4 bedroom so 3 spaces are needed. She needs 20' and she has 19.9', she will need relief for the extra spot. Guidera asked if they can get two spots, one in front of the other in the one bay. She can possibly do that. Counsel noted that without a building permit they can't just rebuild in the existing footprint, the building was non-conforming. Counsel stated there is definite a Pyramid issue on the East side. The preexisting house has been demolished but without noting the present conditions on the lot.

Chair summarized that they will need to address the Pyramid Law issue, she will need to address the parking issue, she will need to address the exit to the pool as well. Counsel stated that they did work, and they need to show that they cannot comply, he pointed out that she could have complied to the front yard setback. He stated that she needs to look at the character of the area and show how it is consistent with other houses in the neighborhood. She stated that she didn't change anything on her architectural plans, but she was between codes, so she had the setbacks to the last years code. Counsel stated setback codes have not been changed for five years.

MOTION by K. Guidera, seconded by M. Greenwald

**To adjourn on the application of MERCEDES COUNIHAN.**

On Vote: Chair Devinney, M. Greenwald, K. Guidera and J. Zuhusky

On the application of **CAPTAINS NECK REALTY LLC**, 509 Captains Neck Lane, affidavits of mailing and posting were submitted. Present for the applicant was Frank Eisler. The property is a 9-acre parcel on Captain's Neck Lane. It is its own environment except for the property to the south. G. Flanagan represents the Morants, he authorized him to state that they are not objecting to the application. The standard is not to exceed 16' for garages; they are proposing 23' for the garages. After the ARB hearing, it was noted that the proportions and aesthetic of a 16' garage doesn't work with this house. As a result the application is to allow the 23' so that it provides an attractive aesthetic. This Board has granted relief in the past, similar to this request, as well as pool houses to be in sync with the architecture of the house. In their submittal, they evaluated the 5 factors for deciding variances. The factor regarding impact on the community; there is none. The neighboring party has no issue with it and it will not be visible from the road. The benefit to the client is to have an attractive aesthetic.

John Kean, architect, he reiterated what Mr. Eisler stated. He displayed a rendering of the house, it is large and the garages are behind and completely hidden from the street. Even in the winter it is hard to see, in summer cannot be seen at all. He showed a rendering to address the concern about the area over the garage. It is storage and the windows are for aesthetics. The Board asked about heating and AC at the work session; yes, they want heat and AC for the car storage.

Chair asked for the new plans and they were submitted. He showed a rendering of the garages. J. Zuhusky asked if both the are the same; yes, they are identical. M. Greenwald stated that they really can't be seen because of the trees. It is at least 200' back. Chair asked that if it gets subdivided would it put it out of scale; J. Kean stated that even if he chose to subdivide, it would be 4-acre zoning. It could be zoned for 3-acre lots noted Counsel. Counsel asked is there are basements in the garage; J. Kean answer no. He asked what the floor area of each garage, are their calculations of GFA on the plans; he noted yes that they are under 800 square feet. The section states that there is no basement or radiant heating for garages; so a variance is necessary for the heating but was not noticed that they were seeking variance for heating. That request will have to be renoticed.

Counsel also asked why this parcel is different from anywhere else in the Village; J. Kean noted this is a much larger parcel and the privacy make it unique according to Kean. He feels it is in keeping with the neighborhood. Counsel asked if they can state not subdividing the parcel; J. Kean stated they can limit it to 4 acre if it happens, but his client does not intend to do so. There is information on the floor area on the plans for the second floor. He doesn't want the cars parked outside, he wants them garaged. The second floor is for storage.

F. Eisler spoke about the massing, this will have to go to the ARB regarding the height and that architectural balance was addressed in the Old Town cases before that Board. Chair asked about the heating and cooling, if it was an art studio would they allow art to have heating and cooling. The Board stated yes, so he feels that same thinking could apply to cars as well. J. Zuhusky stated cars need to be temp controlled. M. Greenwald asked for the copies of the decisions for the Old Town variances. F. Eisler submitted the decisions to the variances granted. Counsel asked how many garages were granted in those cases; it was six spaces. It was all driven by the aesthetic and size of the property in those variances. The landowner collects cars and houses them in the garage, but it will be used for other cars as well.

Counsel stated that they need to request relief from the heating, they need to readvertise. Counsel stated what is important is the precedential issue, if they grant this the Board would have precedent set. K. Guidera stated that they did it once with Old Town, the size of the property and the size of the house dictated those changes. Counsel reiterated that it can set a precedent. Mr. Eisler stated that presenting the facts is why variances are granted, there are not many parcels this size left in the Village. J. Zuhusky asked if they would agree to not subdivide it as part of the decision. They would stipulate 4-acre subdivision if they decided to do so. They could stipulate that if he subdivided, they would they take them down. Chair stated that the massing isn't an issue here, the floor area is 792 square feet. Counsel noted that the survey says 895 square feet, the limit was 800 on their submitted survey. They have submitted a corrected survey that shows the square footage at 792 square feet. J. Kean would like to get started on the foundation work so they will return later for heat/AC so they can move forward. F. Eisler stated that the correct square footage was on the updated plan.

Counsel Bruyn stated that they need more apples to apples comparison, the case is that this can be subdivided, the other was not able to be subdivided. They would be okay to stipulate four-acre zoning if subdivided or taking down structures if subdivision occurs. J. Kean does not want to adjourn to readvertise at this point for heat. They will not put in heat without coming before the Board, but he has time to do that since the floor is not poured until later in the construction process.

MOTION by K. Guidera, seconded by M. Greenwald

**To close for written decision on the application of CAPTAINS NECK REALTY LLC.**

On Vote: Chair Devinne, M. Greenwald, K. Guidera and J. Zuhusky

MOTION by K. Guidera, seconded M. Greenwald

**To close the meeting.**

On Vote: Chair Devinne, M. Greenwald, K. Guidera and J. Zuhusky

Respectfully Submitted by:

---

JoLee Sanchez

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

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