

John M. Bredemeyer III, President
Michael J. Domino, Vice-President
Glenn Goldsmith
A. Nicholas Krupski
Charles J. Sanders



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BOARD OF TOWN TRUSTEES
TOWN OF SOUTHOLD

Minutes

Wednesday, October 19, 2016

5:30 PM

Present Were: John Bredemeyer, President
Michael Domino, Vice-President
Glenn Goldsmith, Trustee
A. Nicholas Krupski, Trustee
Charles Sanders, Trustee
Elizabeth Cantrell, Senior Clerk Typist
Damon Hagan, Assistant Town Attorney

CALL MEETING TO ORDER
PLEDGE OF ALLEGIANCE

NEXT FIELD INSPECTION: Wednesday, November 9, 2016 at 8:00 AM
NEXT TRUSTEE MEETING: Wednesday, November 16, 2016 at 5:30 PM
WORK SESSIONS: Monday, November 14, 2016 at 4:30 PM at Downs Farm, and on
Wednesday, November 16, 2016 at 5:00 PM at the Main Meeting Hall

MINUTES: Approve Minutes of September 21, 2016.

TRUSTEE BREDEMEYER: Good evening and welcome to the regular monthly meeting of the Trustees for October 19th. For those of you who do not yet have a meeting agenda, they are on the two lecterns up front.

There are a number of items that have been postponed, typically because we are awaiting additional information from the applicants or they are in process because a violation has been issued and it has to clear through the courts. So I'll just run through these quickly. But you can refer to your agenda.

On page eight, item 1, under public hearings, item 1 under Amendments, Michael Kimack on behalf of **SOUNDFRONT HOLDINGS, LLC** request an Amendment to Wetland Permit #8047 and Coastal Erosion Permit #8047C for the existing collapsed steel bulkhead behind concrete seawall and existing damaged concrete seawall to remain; remove the collapsed bluff stairs and steel sheet piling

retaining wall from face of bluff; the originally proposed bulkhead with 10' and 20' returns, proposed 47' vinyl retaining wall with 9' and 10' returns, and proposed timber terracing walls on face of bluff were not constructed; for the as-built stabilizing of the concrete bulkhead by placing approximately 1,000 tons of large stones in between the steel bulkhead and concrete bulkhead and top off with 4-6+ stones; as-built gabion return wall along the westerly adjoining property line; cut collapsed steel bulkhead down below finish grade; as-built six tiered retaining wall system, completely integrated, to stabilize slope and protect westerly property line; redesigned bluff stairs to attach to retaining walls; bluff stairs were constructed 4' wide and 45.2' long in lieu of 50' with a 23sq.ft. top landing and a 24.5sq.ft. bottom landing; replaced collapsed brick patio with as-built 176sq.ft. natural irregular shaped bluestone patio between dwelling and top retaining wall; as-built 73sq.ft. lower tier bluestone patio; as-built wire fencing along top retaining wall; added fill to terraced areas; a ±450sq.ft. sandy beach area landward of stone bulkhead; revegetated void areas with American beach grass and rosa rugosa. Located: 20275 Soundview Avenue, Southold. SCTM# 1000-51-4-8, has been postponed.

Item two on page eight, Docko, Inc. on behalf of **BRIM FISHERS ISLAND TRUST, c/o JOHN BRIM** requests a Wetland Permit and a Coastal Erosion Permit to construct a 4' wide by +/-181 linear foot long fixed wood pile and timber pier; a 3.5'x20' ramp; an 8'x20' floating dock with four (4) restraint piles; install four (4) tie-off piles; relocate boulders within the vicinity of the proposed float and berthing areas under the new pier; and on top of existing concrete foundation pier located in beach area construct a proposed +/-18'x28' wood platform. Located: 3206 Brooks Point Road, Fishers Island. SCTM# 1000-4-3-3, has been postponed.

And items 16, 17, 18 and 19 on page 12 are postponed. They are listed as follows:

Number 16, Patricia C. Moore, Esq. on behalf of **JOSEPH SBARRA** requests a Wetland Permit to construct a 20'x40' in-ground swimming pool; install a 1,525sq.ft. on-grade patio all landward of existing retaining wall with a 4' wide planter. Located: 3200 Cox Neck Road, Mattituck. SCTM# 1000-113-8-5

Number 17, Thomas Wolpert, P.E. on behalf of **MILDRED M. PASCUCCI** requests a Wetland Permit for the as-built 10' wide path through the existing vegetation along the easterly side of the property to install a test well; construct a proposed two-story, single family dwelling with the first floor area to include 518sq.ft. of living space, a 1,445sq.ft. deck, a 336sq.ft. pool, a 70sq.ft. ramp, and 148sq.ft. of stairway; second floor to include 1,741 sq. ft. of living space, a 345sq.ft. deck, 112sq.ft. of stairway, and a 625sq.ft. landing; install a sanitary system in an approximately 625sq.ft. area; construct a 2.5' high by 88' long retaining wall; install a 1

,030sq.ft. pervious driveway; add approximately 630 cubic yards of clean fill onto property; and clear vegetation within a 9,557sq.ft. area on the property. Located: 305 Narrow River Road, Orient. SCTM# 1000-26-3-11

Number 18, Patricia C. Moore, Esq. on behalf of **DOUGLAS A. GEROWSKI, MICHELLE GEROWSKI & DOUGLAS J. GEROWSKI** request a Wetland Permit to install a swimming pool with patio approximately 48" above grade for a combined 1,766sq.ft. total footprint. Located: 2570 Clearview Avenue, Southold. SCTM# 1000-70-10-29.2

And number 19, Jeffrey Patanjo on behalf of **FOR THE LOVE OF FAMILY LLC, c/o ANTHONY LOMANGINO** requests a Wetland Permit for a Ten (10) Year Maintenance Permit to dredge 250 cubic yards of course sand from existing inlet; dredged material to be spread on a beach to a maximum depth of 12"; all work to be above the mean high water line and avoiding disruption of existing vegetated wetlands in the area; the maintenance permit would include five (5) additional dredging events consisting of 50 cubic yards of sand for each event. Located: 9205 Skunk Lane, Cutchogue. SCTM# 1000-104-3-16.1

At this time, I'll make a motion for the Board to hold field inspections on Wednesday, November 9th at 8:00 AM.

Is there a second?

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion that we hold the next Trustee meeting November 16th at 5:30 PM, in the main meeting room of the Town Hall.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I move we hold work sessions on November 15th, at 4:30 PM on Downs Farms and immediately preceding the regular monthly meeting of November 16th at 5:00 PM, in the main meeting hall. Is there a second?

TRUSTEE DOMINO: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion to approve the Minutes of from September 21st, 2016 meeting. Is there a second?

TRUSTEE DOMINO: So moved

TRUSTEE BREDEMEYER: Second. All in favor?

(ALL AYES).

I. MONTHLY REPORT:

The Trustees monthly report for September 2016. A check for \$9,394.29 was forwarded to the Supervisor's Office for the General Fund.

II. PUBLIC NOTICES:

Public Notices are posted on the Town Clerk's Bulletin Board for review.

III. STATE ENVIRONMENTAL QUALITY REVIEWS:

RESOLVED that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section VIII Public Hearings Section of the Trustee agenda dated Wednesday, October 19, 2016, are classified as Type II Actions pursuant to SEQRA Rules and Regulations, and are not subject to further review under SEQRA:

Mattituck Park District - SCTM# 1000-99-2-19.1
Brewer Yacht Yard at Greenport SCTM# 1000-34-5-7
Gayle B. Wallace - SCTM# 1000-136-1-3 (Dominant) & SCTM#'s 1000-136-1-1 & 1000-136-1-5 (Servient)
Rachel Cashwell - SCTM# 1000-71-2-3
Maria Reinecki - SCTM# 1000-35-4-28.7
Susan T.H. Kwit Revocable Trust, c/o Susan Kwit, Trustee - SCTM# 1000-117-5-12.1
Bernadette Hogan - SCTM# 1000-86-2-4
Lance Carlton - SCTM# 1000-106-1-24
David & Colleen Bofill - SCTM# 1000-1 18-1-1.4
Rueben & Margery David - SCTM# 1000-78-2-29
David Schab & Ariel Kaminer - SCTM# 1000-90-1-9
West Lake Association - SCTM# 1000-90-1-1 1
Joseph Sbarra - SCTM# 1000-1 13-8-5

TRUSTEE BREDEMEYER: I would move these as a group, excepting that the Mattituck Park District proposal which is actually an unlisted action and will be pulled from the group. I'll enter that upon the section for unlisted actions. So I'll move the group excepting Mattituck Park District. Is there a second?

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Resolved that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section VIII Public Hearings Section of the Trustee agenda dated Wednesday, October 19, 2016, are classified as Unlisted Actions/Negative Decision pursuant to SEQRA Rules and Regulations. A Long Environmental Assessment Form and a field inspection have been completed by the Trustees for the following applications and it is hereby determined that they will not have a significant effect on the environment:

I would move these as a group:

Samuel Singer - SCTM# 1000-75-6-6.1
Daniel & Gina DeVito - SCTM# 1000-81-3-26.1
And the Mattituck Park District, SCTM# 1000-99-2-19.1

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: These actually, the negative declaration follows on the two. The Park District doesn't have concluded environmental reviews. So actually the Singer and DeVito environmental declarations follow. Those are unlisted actions.

Is there a second?

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

IV. ENVIRONMENTAL DECLARATION OF SIGNIFICANCE PURSUANT TO NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT NYCCR PART 617:

TRUSTEE BREDEMEYER: The first environmental declaration of significance pursuant to the New York State Environmental Quality Review Act is in the matter of the application of DKR Shores on behalf of **SAMUEL SINGER** requests a Wetland Permit to construct a 4'x1 56' dock elevated to 30", using Thru-Flow decking and supported by 4"x4" posts in vegetated areas; install a 3'x20' seasonal ramp; install a 6'x20' seasonal floating dock in an "I" configuration; dock to consist of untreated materials, and in water areas under dock to be supported with monopole/ice breaker pilings. Located: 44030 Route 25, Peconic. SCTM# 1000-75-6-6.1

The negative declaration of environmental significance reads:

WHEREAS, the Southold Trustees are familiar with this project having visited the site on multiple occasions and having considered plans for this proposed dock and revisions made at the request of the Board.

WHEREAS, a revised project plan dated July 23, 2016 was submitted to the Southold Trustees on July 29, 2016 addressing all of the Southold Board of Trustees concerns as noted below:

Navigation: The proposed dock meets standards and does not extend beyond 1/3 across the water body. Depths for the floating dock portion are within Town Trustee, NYSDEC and USACE guidelines and there is no recognized Federal/New York State/Town channel contiguous to this site.

Scope: The proposed dock, in order to meet prevailing navigation standards for depth in this location in this un-dredged portion of the creek, where a dredge ban is in effect, shall extend approximately 136' water-ward of MHW for a creek nearly 500' wide in this location. Eleven other docks measured on "Google Earth" existing in this North-East branch of Richmond Creek appear to vary in length from approximately 50' to 170' offshore of MHW to meet similar standard depths.

Toxicity: To protect the headwaters of Richmond Creek where poor water exchange and circulation are considered a possibility, the dock shall be constructed entirely of non-toxic materials.

Scope in relation to the riparian rights of shellfishers: The plan revision provides for a piling separation of 12' per dock section, much less than the usual separation of 8'. The 3 pile system supporting each dock section is designed so as to nearly create a monopole that will provide for easier access for those boating and seeking shellfish and crustacea in season. The offshore waters in this location may offer limited mobility to users on foot due to silt and muds but would also be improved by the aforementioned spacing. The non-toxic wood pilings will actually increase net surface area available for the attachment of beneficial marine organisms while minimizing permanent bottom loss from pile coverage compared with a standard construction dock of similar length. There is insufficient loss of shell fishing access to justify extinguishing the riparian right to wharf out of the upland owner. The non-toxic attributes of this site potentially make it a prime

location for cooperative shellfish aquaculture.

Scope in relation to small human powered water craft: The Creek seaward to its mouth is slightly over one mile long and is sufficiently protected from high winds under ordinary conditions that it is ideal for small human powered water craft. A vessel traversing the East side of this creek from its mouth to and entirely around the proposed dock (and not returning) will be inconvenienced out of way approximately 5.2% of the entire trip. This is not considered significant. Any operator of a small water craft powered by hand should consider energy and food/water reserves to effectively deal with any emergency. Not unlike a motor or sail powered vessel a minimum reserve of 50% supplies/effort is minimal.

Environmental Upkeep: The dock design projects no pile replacement for 30 years or the need for bubbler system in the winter (used to protect against frost heave). The presence of such a system in the headwaters of a creek may upset the thermodynamic balance in winter and kill fish, shellfish and their larvae.

Therefore, on account of the forgoing, the Southold Town Board of Trustees Approve and Authorize the preparation of a Notice of Negative Declaration pursuant to SEQRA for the aforementioned project. That's my motion.

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The second environmental determination is matter of Costello Marine Contracting corp. on behalf of **DANIEL & GINA DEVITO** request a Wetland Permit to construct a 4'x40' landward fixed ramp to a 4'x1 50' fixed dock with a step down to a 4'x30' fixed lower platform at offshore end; install four (4) 10" diameter mooring pilings; and install water and electric to the dock.

Located: 750 Paradise Point Road, Southold. SCTM# 1000-81-3-26.1

With respect to the proposed SEQRA negative declaration: WHEREAS, the Southold Trustees are familiar with this project having visited the site on October 11, 2016 and having considered plans for this proposed dock at their October 17, 2016 work session.

WHEREAS, in reviewing the project plans dated August 25, 2016, it has been determined by the Board of Trustees that all potentially significant environmental concerns have been addressed as noted herein:

Navigation: The proposed dock meets standards and does not extend beyond 1/3 across the water body. Depths for the dock terminus are within Town Trustee, NYSDEC and USACE guidelines and there is no recognized Federal/New York State/Town navigation channel in the immediate vicinity of the proposed structure.

Scope: The proposed dock is shorter than docks on neighboring properties.

Toxicity: To protect the waters of Peconic Bay the dock's decking shall be constructed entirely of non-toxic materials.

Scope in relation to the riparian rights of shellfishers: The plan provides for a standard piling design that will permit access beneath the decking for small vessels at low tide and those seeking shellfish and crustacea on foot in season.

Accordingly, it does not materially diminish riparian access to harvest beneficial marine organisms.

Scope in relation to the rights of small human powered water craft to navigate the waters adjacent to the proposed dock: Shelter Island Sound/Southold Bay is slightly over one mile wide in this location. A human powered vessel traveling from Cedar Beach Point to Paradise Point and back (or across to Shelter Island and back) and compelled to navigate around the several docks in the vicinity would not be inconvenienced more than 10-20% off its course. At low tide a kayak might be able to paddle beneath most docks in the area. As the fetch from the South and Southeast in the vicinity of the proposed dock is considerable, and can result in 2-3 foot wavelets in season, a prudent kayaker mindful of the needs to only sail in waters within their personal capability would not find navigating around the proposed dock dangerous or a hardship. Any operator of a small water craft powered by hand should know the waters they intend to navigate and have sufficient energy and food/water reserves to effectively deal with any emergency.

Environmental Upkeep: The dock design projects a usual lifespan of 30 years with limited pile replacement so as to minimize disturbance of the bottom.

Therefore, on account of the forgoing, the Southold Town Board of Trustees Approve and Authorize the preparation of a Notice of Negative Declaration pursuant to SEQRA for the aforementioned project.

That's my resolution.

TRUSTEE DOMINO: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

(UNIDENTIFIED VOICE): Can someone make a comment on these or no?

TRUSTEE BREDEMEYER: No, the public hearing section is still open with respect to these matters, so you'll have an opportunity to discuss any comments you have with respect to a project during the public hearing section.

(UNIDENTIFIED VOICE): That's later?

TRUSTEE BREDEMEYER: Yes.

(UNIDENTIFIED VOICE): Okay, sorry. Thank you.

V. RESOLUTIONS - ADMINISTRATIVE PERMITS:

TRUSTEE BREDEMEYER: In order to keep the meeting moving along, we do have eleven full pages of agenda items, for items that are administrative in nature for which the Board has inspected and are minor in nature and are not subject to public hearing, and whereupon the applications are consistent with our policies, we will move some applications as a group. Accordingly, under Item V for Resolutions for Administrative Permits, I would move that we approve items one, through three and item five. And item three, sorry, is subject to amendment.

Okay, so I'll stand corrected. I'll reform the resolution. I move to approve as group items one and two and five. They are listed as follows:

Number one, Rick Campos, R.A. on behalf of **ROBERT DEI-SIGNORE** requests an Administrative Permit to construct a 22'6"x41' deck with two sets of steps to grade attached to dwelling. Located: 955 Lake Drive, Southold. SCTM# 1000-59-5-16

Number two, Samuels & Steelman Architects on behalf of **PETER & SUSAN HONIG** request an Administrative Permit to construct a new 9'2"x17'6" two-story landward addition to existing dwelling; construct a 10'2"x6'4" covered side entry porch; install a new walkway between dwelling and garage; and install gutters to leaders to drywells, and in accordance with Chapter 236 of the Town Code-Stormwater Management. Located: 745 Watersedge Way, Southold. SCTM# 1000-88-5-62.

And number five, Suffolk Environmental Consulting on behalf of **ALVIN SCHEIN** requests an Administrative Permit to remove the existing deck and construct a new ±1,095sq.ft. deck with ±15sq.ft. deck steps to grade attached to seaward side of dwelling; and add a ±49sq.ft. hot tub on the new deck.

Located: 2145 Little Peconic Bay Lane, Southold. SCTM# 1000-90-1-15
TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: Motion has been made and seconded. All in favor?

(ALL AYES).

Patricia Moore, do you need me?

TRUSTEE BREDEMEYER: No. It's just administrative. I think there was a stipulation discussed in the work session and I don't believe (Perusing). Nick, why don't you take that.

TRUSTEE KRUPSKI: Number three, Patricia C. Moore, Esq. on behalf of **VINCENT ILLUZZI** requests an Administrative Permit for the as-built replacement of existing first floor 20'10"x22'6" wood deck with 4' wide steps to grade in-place. Located: 1615 Fleetwood Road, Cutchogue. SCTM# 1000-137-4-35

We are going to strike the four-foot wide steps and replace it, and amend it with wood deck with steps to grade in-place.

MS. MOORE: Oh, with steps to grade in-place. Okay.

TRUSTEE KRUPSKI: They are not four-foot wide, upon inspection. So there is no sense having it. It's not an issue with us, it's just --

MS. MOORE: Fine, so whatever the steps are, they stay. That's fine, thank you.

TRUSTEE KRUPSKI: Yes. So I'll make a motion to approve this application as amended.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next application, number four, En-Consultants on behalf of **18975 SOUNDVIEW AVENUE, LLC** requests an Administrative Permit for the existing timber bluff stairway consisting of a 9'x10' top landing, 3'x1 5' steps, 3'x5' landing, 3'x14' steps, 3'x5' landing, 3'x8' steps, 3'x5' landing, and 3'x4' steps; an existing 18'x36' in-ground swimming pool; an existing pool patio with approximate overall dimensions of 42'x52' after the proposed removal of the most seaward 8'x42' section of patio, which shall be equipped with a "Spee-D Channel" drain connected to a proposed 8'x6' drywell; removal of an existing wire pool fence and installation of pool enclosure fencing around the finished patio; relocation of an existing plastic fence to a 10' setback from the top of bluff; removal of all remnants of existing walls, deck, and gravel in an area adjacent to the top of bluff to be restored with native vegetation; and the establishment of a 10' wide non-turf buffer adjacent to the top of bluff. Located: 18975 Soundview Avenue, Southold. SCTM# 1000-51-1-16

This application has been deemed to be inconsistent by the LWRP coordinator. In order to bring it into consistency, I have to move a separate resolution on it.

Whereas the Board is familiar with this application, and defects, initial defects in the construction of the pool, it's historically been there and has been known to the Trustees; and whereas the applicant has agreed to cut back the pool deck to minimize bluff or brown-loading of the bluff, in this vicinity; and whereas the stairs conform with the current standards of the Trustees, I believe that this addresses specifically the concerns of the LWRP coordinator with respect to the safety and closeness of the swimming pool in this location bringing the application into compliance with the LWRP.

Accordingly, I would move to approve this application as submitted.

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next application, number six, Joan Chambers on behalf of **MGH ENTERPRISES, INC., c/o ROBERT HAAS** requests an Administrative Permit to remove the existing shed; relocate the existing portable walk-in cooler; remove 532sq.ft. of wood decking; install helical piles and grade beams to support a new 16'x16' two-story accessory building and new 10'x4' utility shed. Located: 40200 Route 25, Orient. SCTM# 1000-15-9-8.1

This application was submitted without plans for the handling of runoff from the small accessory building that is proposed and from refrigeration equipment to be located in it, which is a walk-in box and ice machine.

I would move to approve this application with the stipulation that plans to meet the Town Drainage Code under Chapter 236 be submitted before the permit is released.

That's my motion.

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: All in favor?
(ALL AYES).

TRUSTEE BREDEMEYER: The next application, number seven, **VERONICA M. LUGRIS & MARIJO C. ADIMEY** request an Administrative Permit to install 4' high fencing around the perimeter of the property. Located: 21515 Soundview Avenue, Southold. SCTM# 1000-135-1-5

This I believe is the modified permit description. The applicant having resubmitted a plan for a small scale fence around their property to allow for keeping their dogs on site; the applicant is also agreeing to a six-foot non-turf buffer. We'll modify, I guess the wording is should include non-turf buffer. I'll move to approve this application as submitted for four-foot high fence entirely within the property of the owner and no closer than six feet to the top of the bluff and to provide for a six-foot non-turf buffer and a gate at the driveway entry.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?
(ALL AYES).

Moving right along, number eight, **BARBARA REHREN** requests an Administrative Permit for the clearing performed within a 50' wide Non-Disturbance buffer area; and to further clear invasive poison ivy and vegetation within the buffer and re-vegetate area with native plantings. Located: 155 Breakwater Road, Mattituck. SCTM# 1000-113-3-4

This application is a culmination of investigation after a Wetland Code violation. And for which the applicant has agreed to stipulations to bring it into compliance. And accordingly, I would move that the request for administrative amendment for Barbara Rehren be approved with the condition that a new ten-foot wide non-turf wetland buffer be installed, that there be no incursion into the non-disturbance area that is immediately waterward, seaward of that, all in accordance with the plan as last revised on June 28, 2016, on the license survey of Nathan Taft Corwin. That's my motion.

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: All in favor?
(ALL AYES).

VI. APPLICATIONS FOR EXTENSIONS/TRANSFERS/ADMINISTRATIVE AMENDMENTS

TRUSTEE BREDEMEYER: As I indicated earlier, certain administrative actions where the board is looking at minor actions that are not subject to public hearing for which the applicant has provided all the information and we need to make a determination, we try to group them for the sake of simplicity and accordingly under Item VI on your agenda, applications for extensions and transfers and administrative amendments I would

move to approve items one, two, three, four, five and six, the entirety under that item number six. They are listed as follows:

Number one, **KRISTOPHER J. PILLES** requests a Transfer of Wetland Permit #3898 from Frank Curran to Kristopher J. Pilles, as issued on April 5, 1991. Located: 560 Fishermans Beach Road, Cutchogue. SCTM# 111-1-16

Number two, **KRISTOPHER J. PILLES** requests a Transfer of Wetland Permit #4666 from Frank & Sandra Curran to Kristopher J. Pilles, as issued on November 25, 1996, and Amended on May 26, 2004. Located: 560 Fishermans Beach Road, Cutchogue. SCTM# 1000-111-1-16

Number three, **ANDREW T. FOHRKOLB** requests a Transfer of Wetland Permit #1767 from Russell & Helen D. Tuthill to Andrew T. Fohrkolb, as issued on November 7, 1983. Located: 5780 New Suffolk Avenue, Mattituck. SCTM# 1000-115-10-7

Number four, Shawn M. Barron, M.S. on behalf of **CAMERON DOWE** requests an Administrative Amendment to Wetland Permit #8773 to replace existing 6'x20' floating dock with an 8'x20' floating "Flupsy" aquaculture dock unit situated in an "I" shaped configuration. Located: 975 Cedar Point Drive west, Southold. SCTM# 1000-90-1-5

Number five, En-Consultants on behalf of **JOAN R. CHISHOLM** requests an Administrative Amendment to Wetland Permit #8207 for the construction of approximately 58 linear feet of vinyl bulkhead; a +/-54' vinyl return in lieu of proposed 100 linear feet of Hesco Barriers; backfill/re-nourish area landward of new bulkheading with approximately 215 cubic yards of clean sand fill to be trucked in from an approved upland source; plant the 15' wide non-turf buffer with Cape American beach grass 18" o.c.; construct a shore-parallel 4'x6' landing and 4'x6' steps to beach off bulkhead in lieu of proposed shore-perpendicular platform with stairs to beach; replace as needed +/-16'x20' on-grade masonry patio; eliminate the proposed replacement of existing retaining wall; and to correct the dimensions of the existing wood deck to be replaced from 13'x23' to a wood deck attached to dwelling. Located: 200 MacDonald Crossing, Laurel. SCTM# 1000-145-4-16

And number six, **JACOB & JILL KUBETZ** requests an Administrative Amendment to Wetland Permit #8717 to construct the two basement access landscape retaining walls out of natural boulders in lieu of man-made blocks; and to install a set of stone steps leading through the west wall. Located: 1600 North Oakwood Drive, Laurel. SCTM# 1000-127-6-10

That my motion.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?
(ALL AYES).

VII. RESOLUTIONS - OTHER:

TRUSTEE BREDEMEYER: In the Resolutions-Other category, so we all can take time off from our respective jobs and maybe enjoy the waters around us, I would move to set

the 2016-17 scallop season.

1 . Set 2016/2017 Scallop Season:

RESOLVED, that the Southold Town Board of Trustees open the following dates to scallop harvesting and pursuant to Chapter 219 (Shellfish) of the Code of the Town of Southold: From Monday, November 7, 2016 from sunrise to sunset through Friday, March 31, 2017 inclusive, in all Town waters, as per Town Code.

Is there a second?

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion to go off our regular meeting agenda and open to public hearings.

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

VIII. PUBLIC HEARINGS:

WETLAND & COASTAL EROSION PERMITS:

TRUSTEE BREDEMEYER: The first item, L.K. Mclean Associates on behalf of **MATTITUCK PARK DISTRICT** requests a Wetland Permit and a Coastal Erosion Permit to install a 25' wide by 40' long steel shade shelter supported by six (6) foundation columns over a proposed 4" (25'x40') concrete slab; and to install an approximately 12'x24' timber deck fastened onto the existing concrete slab that is attached to the existing lifeguard building. Located: 5155 Breakwater Road, Breakwater Beach, Mattituck. SCTM# 1000-99-2-19.1

I discussed with the engineer/project manager this job this morning the needs for continuing environmental review at the request of the Board. I'm encouraging that the new facilities be located within the pre-existing intensified area, and the project manager Mr. Dwyer is going to bring our request back to the park commissioners, hopefully for modified plans or an articulation from them as to the needs for the current placement that we are looking at.

Accordingly, I move to table this application until we receive a return from the park commissioner or Mr. Dwyer.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

WETLAND PERMITS:

TRUSTEE BREDEMEYER: The next application is under Wetland Permits, DKR Shores, Inc. on behalf of **SAMUEL SINGER** requests a Wetland Permit to construct a 4'x156' dock elevated to 30", using Thru-Flow decking and supported by 4"x4" posts in vegetated areas; install a 3'x20' seasonal ramp; install a 6'x20' seasonal floating dock in an "I" configuration; dock to

consist of untreated materials, and in water areas under dock to be supported with monopole/ice breaker pilings. Located: 44030 Route 25, Peconic. SCTM# 1000-75-6-6.1

Is there anyone here wish to speak on behalf of this application?

MS. RIGDON: Good evening. Agena Rigdon of DKR Shores here to represent Samuel Singer, the property owner. Thank you, for the extensive review under the LWRP SEQRA Act, and thank you for the consideration for the dock.

MS. PIERSON: My name is Nancy Pierson, I'm a neighbor. My property adjoins his property. I have a question about why, it seems to me there is a discrepancy between Mark Terry's LWRP analysis of the extent of the dock across the creek. I think he said it exceeded one-third, and you said it does not? I'm just curious how that --

TRUSTEE BREDEMEYER: The initial determination, for point of information, was made based on a prior plan submission, and the one-third across the creek, of course, we don't nearly ever allow any structure to go more than one-third of the way across the creek. But there are some instances, let's say, with a very narrow channel, where it may only have sufficient room for an individual, small, hand-powered vessel or small motor boat, we'll sometimes will approach it. But in those cases the vessel tied to a dock can't go more than a third of the way across.

It has been the United States Army Corps of Engineers who is arguably the primary enforcer of the rights of free navigation in the country. That is their rule of thumb. On Trustee underwater lands, the Trustees can bring other information to bear with respect to discretionary decisions that we make, including the depth of water within the vicinity of the docks so we are not unnecessarily disturbing the bottom from turbulence from boaters, or to take into account standing shellfish beds or shellfishing status of a waterbody.

In this case, the initial inconsistency by the LWRP coordinator was drawn on a larger structure before it was modified at the request of the Trustees.

MS. PIERSON: Okay. And one other question I have. I see no itemization as to lighting in regard to this dock. Is lighting, will there be lighting be on the dock?

TRUSTEE BREDEMEYER: if It has not been applied for, they can't have it. Unless there was a separate application for it -- I think I see a head shaking out there. We can have DKR Shores and the owner articulate that. I'm not sure if the Trustees think this is an appropriate location for lighting.

MS. RIGDON: The dock was redesigned to actually be less than 25% of the waterway, which is required by the Corps of Engineers, and there will be no lighting.

TRUSTEE BREDEMEYER: Is there anyone else who wishes to speak with respect to this application?

(Negative response).

Hearing no further comment, any Board questions or concerns?

(Negative response).

Hearing none, I'll make a motion to close the hearing in this matter.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion to approve this application as submitted.

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Number two, Costello Marine Contracting Corp. on behalf of **DANIEL & GINA DEVITO** request a Wetland Permit to construct a 4'x40' landward fixed ramp to a 4'x150' fixed dock with a step down to a 4'x30' fixed lower platform at offshore end; install four (4) 10" diameter mooring pilings; and install water and electric to the dock. Located: 750 Paradise Point Road, Southold. SCTM# 1000-81-3-26.1

Is there anyone here who wishes to speak on behalf of this application?

MR. COSTELLO: Jack Costello on behalf of the applicant to answer any questions that might be at hand.

TRUSTEE BREDEMEYER: Give us one second here. I managed to get quite a collection of files. Please bear with me. (Perusing).

The project is listed as inconsistent under the LWRP coordinator's report. The lengthy SEQRA review by this Board and the negative determination negative declaration of environmental significance addresses essentially potential conflicts of the riparian rights of people along the foreshore and access of shellfishers and small boaters, and I believe appropriately addresses all the issues that are before us.

So accordingly, when we have additional discussion on this, I intend to include the fact that the Board's environmental review has considered a goodly number of these issues.

Does the Board have any questions with respect to this dock? It was shorter than both neighboring docks and also narrower. I don't think we viewed it as --

TRUSTEE KRUPSKI: Why on the one side as opposed to the other of the property?

MR. COSTELLO: It was just a visual thing. The boat will actually be on the north side of the dock, so they just wanted to kind of get it out of direct line of the sight of the house. But the piece of property is 250 feet wide.

TRUSTEE KRUPSKI: Right. Because the stairs are at one end and the dock is at the other, so. I think we'll be back here in a year for steps.

MR. COSTELLO: It was just the way they wanted it. Esthetics.

And the way the property is situated, it's plenty of room.

TRUSTEE BREDEMEYER: Any other questions of the Board?

(Negative response).

Anyone else wish to speak to this application?

(Negative response).

Hearing no other comments with respect to this application, I make a motion to close the hearing in this matter.

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I would make a motion to approve this application as submitted, noting that the Board of Trustees in concluding a more thorough environmental review and issuing a negative declaration under SEQRA, have addressed the issues and concerns of the LWRP coordinator and therefore bring this project into consistency with the LWRP. Motion to approve.

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE SANDERS: Number three under wetland permits, Latham Sand & Gravel, Inc. on behalf of **BREWER YACHT YARD AT GREENPORT, INC.**, requests a Wetland Permit go remove dilapidated floating docks and replace with HDPE floatation boxes with no change to existing configuration; replacement to consist of one (1) 6'x149' main walkway; one (1) 4'x52' tee at seaward end of walkway; six (6) 3'x1 8' finger piers; and four (4) 3'x20' finger piers with new floats to be attached to existing piles. Located: 300 Robinson Road, Greenport. SCTM# 1000-34-5-7

The LWRP has found this to be exempt.

And the CAC has resolved to support this application.

Is there anybody here on behalf of the applicant?

Cricketts. I guess not. The one thing I didn't mention is on October 14th, 2016, I inspected this property and found no issues with the replacement in-kind.

So therefore I make a motion to close this hearing.

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE SANDERS: I make a motion to approve this application

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next application of **GAYLE B. WALLACE** requests a Wetland Permit to reconstruct the existing 3'x35' catwalk using Thru-Flow decking and raised 18" above grade; a 3'x19'8" aluminum ramp; and a 6'x20' floating dock situated in an "I" configuration with two piles to secure the float. Located: 150 Briarwood Lane (Dominant); 425 & 350 Briarwood Lane, at End of 20' Wide Right-of-Way, Cutchogue (Servient). SCTM# 1000-136-1-3 (Dominant); 1000-136-1-1 & 1000-136-1-5 (Servient)

Before I open the hearing I just want to indicate that the LWRP coordinator indicated some deficiencies on the proposed plans for which the applicant will have to address, and either

by copy of the LWRP coordinator report and/or a letter from our office covering that, those issues will have to be addressed.

Also, today, in the Office of Town Trustees, we received materials for which the Board has not yet had an opportunity to review, and there was also a letter from an attorney submitted for which I don't know the Board previously had a chance, and this evening approaching the dais, attorney Dan Ross approached indicating that parties here may be trying to hammer out an agreement ahead of the hearing.

Accordingly, if the persons wishing to speak to this hearing would identify themselves either by raising their hand and they agree to go try to settle this matter themselves and have the Board table it, would you just kindly acknowledge that everybody is here who is here interested in this matter, would do so and identify their relationship to the persons of interest, the dominant or servient owners. Just so I know whether we can table this or not.

MR. WALLACE: Good evening. For the applicant, William Wallace, 229 7th Street, Garden City, New York. Mr. Ross is here. We have met, Mr. Ross and I, with his clients and we are in the process of trying to work out, his clients are owners at the end of the right-of-way, so we are trying to work out the issues that we have with them. So we would ask that it be tabled. I think jointly ask tonight's hearing be tabled to at least next month's meeting, which I understand now is on the 16th of November, with the hopes that we can resolve those differences. Although I do look forward to receiving your correspondence regarding the deficiencies.

TRUSTEE BREDEMEYER: You can pick up the LWRP coordinator's report any time you want. But it's very simply a matter of establishing a beginning and an end in relation to the plot line and the assumed mean high water mark. But if you need additional guidance from the LWRP coordinator's report we'll be glad to distribute that to both of you.

MR. WALLACE: In addition, I have proof of service which has not been filed yet. I don't know if I can file it tonight or if I'll file it tomorrow, if that's okay.

TRUSTEE BREDEMEYER: You mean the mailing.

MR. WALLACE: Proof of mailing and proof of posting.

TRUSTEE BREDEMEYER: The clerk will take that.

MR. ROSS: Dan Ross, Westphalia, Mattituck Mr. and Mrs. Cusumano and Mr. and Mrs. Carcich. And, yes, we join in the application to adjourn this matter. Keep it open.

TRUSTEE BREDEMEYER: No one else here to speak to this matter? (Negative response).

Okay, Trustees, quick input before we table? (Negative response).

Thank you, very much. It's nice to see people trying to work together. I move to table this application.

TRUSTEE GOLDSMITH: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next application is Land Use Ecological Services, Inc. on behalf of **DANA & MICHAEL SAVINO** request a Wetland Permit for the existing +/-104 linear foot long bulkhead to be removed and replaced or cut down in-place to become a low-sill bulkhead; install +/-96 linear feet of new vinyl bulkhead 5' landward of proposed low-sill bulkhead; remove +/-60 cubic yards of fill between the two bulkheads to create +/-475sq.ft. of tidal wetland area and vegetate with *Spartina alterniflora*; the 5' wide deck area between the proposed low-sill bulkhead and proposed vinyl bulkhead to be converted to open-grate decking with the existing seaward bulkhead pilings to be utilized to support the seaward edge of proposed open-grate decking area with the low-sill bulkhead under it.

Located: 1945 Bayview Avenue, Mattituck. SCTM# 1000-106-6-37

Is there anyone here who wishes to speak on behalf of this application?

(Negative response).

TRUSTEE BREDEMEYER: All right, with respect to the Dana and Michael Savino application, I have been advised by our counsel Damon Hagen that a counter proposal that was articulated through the Town Attorney's office to the attorneys for the Savino's -- is that fair to say? Understood. There is still some ongoing discussions between the attorneys for the proposals. With that in mind I'll open this hearing for input at this time.

Is there anyone who wishes to speak on behalf of this application?

TRUSTEE BERGEN: Not on behalf of.

TRUSTEE BREDEMEYER: On behalf of or against this application. Speaking about this application.

TRUSTEE BERGEN: Thank you. Dave Bergen, Cutchogue. I've read what was posted for the public hearing tonight and just wanted to place on the record some comments during this public hearing.

As the Trustees are aware, there was a decision on this matter made by Judge Tarrantino back in February of 2015. And in his decision he noted that the survey dated November 6th, 1986, shows that the property was actually 18-foot seaward of where the applicants' perceived their property to be. So when I saw what is proposed here tonight, it is talking about in the application a cutting down the bulkhead in place and then constructing a new bulkhead five-foot seaward of the current bulkhead, as I understand it. That would be placing, this new construction would be placing a bulkhead on Trustee property, not on the applicants' property as per what I understood the court's ruling to be. And so the other part of this application was including the opportunity for a low sill bulkhead. And actually in this area of Mattituck Creek, there is not a need for a low sill bulkhead because understandably if that property was then regained, that 18-foot of property, that is going to naturally develop into wetlands. So there is not a need for

that extra structure or the disturbance of the construction of that structure to those wetlands.

Also in the application it's requesting a flow-through deck between the proposed new bulkhead and what would remain of the old bulkhead. Again, deck over land belonging to the Trustees, not to the applicant.

So I wanted to make those comments on the record tonight and hope that the Trustees and counsel for the Trustees in working with the Savino's will take that into consideration.

TRUSTEE BREDEMEYER: Understood. Thank you, very much, for your input. We can't comment with respect to pending matters, but the items you have outlined, the Board is cognizant of, and we appreciate the iteration, because it is important. Thank you, very much.

TRUSTEE BERGEN: It would obviously set a new precedent if the Trustees approved a property owner to build bulkheads on what is Trustee land and not on their land. So that's what I'm hoping that the Trustees will avoid.

TRUSTEE BREDEMEYER: Well articulated by Trustee emeritus Dave Bergen. Thank you.

TRUSTEE BERGEN: Thank you.

TRUSTEE BREDEMEYER: Is there anyone else who wishes to speak to this matter before we table the matter for additional communications between the Town Attorney and the attorney for the Savino's? Any Board member?

(Negative response).

Thank you, very much. Accordingly, on advice of counsel I make a motion to table this matter.

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number six, En-Consultants on behalf of **MARIA REINECKI** requests a Wetland Permit to construct approximately 162 linear feet of vinyl bulkhead in-place of and 18" higher than existing timber bulkhead; construct approximately 20 linear feet of submerged "low-sill" vinyl bulkhead in place of existing timber bulkhead at mouth of existing boat ramp; construct +/-32' northerly/westerly vinyl return in place of existing timber return; construct +/-12' southerly/easterly vinyl return; backfill new bulkhead with approximately 100 cubic yards of clean sand/loam to be trucked in from an approved upland source; construct a 4'x6' platform in place of existing 6'x6.5' platform attached to bulkhead; and replace existing 3'x13' ramp with a 3'x16' ramp to existing 6'x80' floating dock. Located: 670 Wiggins Lane, Greenport. SCTM# 1000-35-4-28.7

The LWRP found this to be consistent. Just noting a silt boom to be installed during construction.

The CAC resolved to support this application.

The Trustees conducted a field inspection on October 11th, noting that to limit the height to between six and 12 inches,

not the 18, to give the neighbor room to match installation of a non-turf buffer. And possibly vegetate the ramp.

Is there anyone here who wishes to speak regarding this application?

MR. HERRMANN: Yes. Good evening, Rob Herrmann of En-Consultants on behalf of the applicant Maria Reinecki. This is a pretty straightforward application in terms of an in-place bulkhead replacement. We had proposed to go up 18 inches, they were just trying to raise the grade in the back as much as possible. If the Board prefer we cut that back to 12 inch max, we don't really have any problem with that. I think that would still accomplish what they are looking to accomplish.

Oh, you said the buffer, I don't know what you were thinking, but certainly a ten-foot non-turf buffer typical width behind the bulkhead would certainly be acceptable. What was the other comment, something to do with vegetating the ramp? I'm not sure what you would be looking for there. They, I think they do use that as an access for their boat. So I'm not sure that vegetating it would hold.

TRUSTEE KRUPSKI: It looked like, while we were there, it looked like they were using it as a kayak slide, mostly. Everything else just looks like bare sand, right.

MR. HERRMANN: I'm just saying -- the soil was pretty compact, that I remember when I was there. Um, you can try it but I think anything they plant there will just get trampled.

TRUSTEE SANDERS: There is a considerable amount of vegetation to the right. If you are looking at the water, there is considerable vegetation landward, to the right. I think that's what Nick is speaking about. We have pictures but it will take us a minute to get them up. And there is a big pole, it's right in the middle, encased in cement. I don't think that pole is removable.

MR. HERRMANN: They can remove it if they can.

TRUSTEE SANDERS: I don't think they are using it to go back and forth with their boat. It's a solid piece.

MR. HERRMANN: I have a couple of photos with the ramp. I'm trying to figure out where you are thinking in terms of vegetating. High water goes right up to here.

TRUSTEE SANDERS: Elizabeth, can you pop up the pictures on this one?

MS. CANTRELL: We actually don't have any for this.

TRUSTEE SANDERS: I have my book. This shows you, your angle is different than mine. See that?

MR. HERRMANN: Up toward the top.

TRUSTEE SANDERS: Yes, it just likes like this whole area, that's what Nick is talking about. They are not utilizing that.

TRUSTEE KRUPSKI: If you are going to keep the low sill there, you'll have water coming over that. And if you were to plant the right side of that, we are not saying vegetate the whole thing, they are using it for kayaks, that's fine.

MR. HERRMANN: Down below that? To get some kind of Alterna

flora down there. We can try it.

TRUSTEE KRUPSKI: We are not trying to make you plant a forest.

TRUSTEE BREDEMEYER: The creek, both sides of the creek significant Alterna flora in that general area.

MR. HERRMANN: We can give it a shot. I can't promise it will hold but they can certainly try it. For that area, it's not a significant cost. We can certainly try it.

TRUSTEE DOMINO: Could you remove the concrete?

MR. HERRMANN: I had talked briefly with Dan Higgins about it. He said if he can move it, he'll move it. It seems, again, I didn't take a lot of notice of it, but it seemed like it was just kind of sitting in there. I don't think it was penetrated down into the ground at all.

TRUSTEE GOLDSMITH: Is there anyone else here who wishes to speak regarding this application? Any other comments from the Board? (Negative response).

I'll make a motion to close this hearing.

TRUSTEE BREDEMEYER: Motion is made. Is there a second?

TRUSTEE DOMINO: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: I make a motion to approve this application with the condition to limit the height to no higher than 12 inches; to install a ten-foot non-turf buffer; and to vegetate the one half, if possible.

TRUSTEE BREDEMEYER: Motion has been made. Is there a second?

TRUSTEE DOMINO: I'll second that.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

MR. HERRMANN: Thank you.

TRUSTEE KRUPSKI: Number seven, En-Consultants on behalf of **SUSAN T.H. KWIT REVOCABLE TRUST, c/o SUSAN KWIT, TRUSTEE** requests a Wetland Permit to construct approximately 98 linear feet of vinyl bulkhead in place of and 18" higher than +/-99 linear feet of existing timber bulkhead; construct +/-30' vinyl return (within property limits) in place of existing +/-26' timber return; backfill new bulkhead with approximately 50 cubic yards of clean sand/loam to be trucked in from an approved upland source; and replace existing 4'x5' platform attached to bulkhead with 4'x6' platform leading to existing 3'x12' ramp and floating dock. Located: 1000 Old Harbor Road, New Suffolk. SCTM# 1000-117-5-12.1

The LWRP program coordinator found this to be consistent and asked that a silt boom be used during construction.

The CAC resolved to support this with the condition of a ten-foot non-turf buffer landward of the bulkhead.

The Trustees visited this site on the 11th, all were present, and we found this to be straightforward but lacked within the description the non-turf buffer.

Is there anyone here that wishes to speak regarding this

application?

MR. HERRMANN: Rob Herman of En-Consultants on behalf of the applicant. This is a straightforward application. This is a second application of two for the Kwit Trust. You saw the other one on the opposite side of the canal last month. I actually have a proposed ten-foot non-turf buffer shown on the cross-section but I omitted it on the front sheet. So I can amend the plan to show that on the front as well.

And I just wanted to make a note, I had this issue with another application, I actually just forgot to mention it during the Reinecki hearing. I was using a different template for my notes and I have an indication that all of the structural timbers here would be untreated. But for the record, vinyl, of course is untreated, but the structural timbers, the wales and piles would be treated lumber. So when I give you the revised plan to show the buffer, I'll correct that typo in the notes and actually the same thing for the Reinecki application. We didn't mention it but I assume I'll owe you a revised plan on that one also. So I just wanted to mention that for the record. But the ten-foot buffer is fine. I had it in there on the profile sheet but I forgot to put it on the front. Mr. Kwit is here and that's acceptable to him. Otherwise I don't have anything else to present on this.

TRUSTEE KRUPSKI: Anyone else here that wishes to speak with regard to this application?

(Negative response).

Are there any other comments from the Board?

(Negative response).

I'll make a motion to close this hearing.

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I'll make a motion to approve this application with the amendment of a non-turf buffer and updated plans.

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

MR. HERRMANN: Thank you.

TRUSTEE DOMINO: Number eight, Jeffrey Patanjo on behalf of **BERNADETTE HOGAN** requests a Wetland Permit to construct 60 linear feet of rip-rap using 150-400 pound stone. Located: 3005 Wells Road, Peconic. SCTM# 1000-86-2-4

The LWRP coordinator found this to be consistent.

The CAC resolved not to support the application to harden the shoreline. Recommends the shoreline be regraded and vegetated with native plantings, and five-foot to ten-foot non-turf buffer installed landward of the bank.

The Trustees did a field inspection on October 11th, and the notes read, this is a possible site for regrading and revegetate before attempting hardening of the shoreline, and

that the applicant might consider coordinating with a living shoreline project that is now moving forward.

Is there anyone here to speak to this application?

MR. PATANJO: Jeff Patanjo on behalf of the applicant.

The proposed project, this was a secondary project to the pier that we recently did about one or two years ago. And in the time since the pier was constructed, there was evidence of additional erosion in that area.

One of the ideas that I have just initially on the comments that were provided was possibly coir logs and some plantings, that could possibly stabilize and be more friendly to the environment. If that's approvable to the Board.

TRUSTEE BREDEMEYER: I think the Board was thinking along those lines. The Cornell Cooperative Extension were in the process of finalizing a grant with them for living shorelines. I don't know if we are at the stage they'll do an offsite demonstration but they are basing it on preliminary research that has been done, I think at the University of Maryland. And what they use is they grow a matrix, either in this case, the town has donated coir logs but we are also looking to use innovative materials such as corn stalks or possibly phragmites, and they are bound, and then they will seed *Spartina Alterniflora* as well as seed the matrix with, in this case bank mussels, and that way you have the benefit of rooting from the *Spartina* and the byssal threads of the mussels. So you want to call it, it's like living shoreline but instead of just simply trying to rely on planting. You know, would certainly be, I think the whole Board and the CAC is looking at this site for something in the non-hard structural as a first course, and quite honestly depending on where Cornell is at, I think we have no problem advancing this as a site, if they were looking for a nice offsite demonstration project. The waters are typically calm, yes, it's a little more fetched than others, but you'd want to have a site to demonstrate it's working, particularly with the recent history of problems. How does the rest of the Board feel?

MR. PATANJO: Are there any grant opportunities for the homeowner?

TRUSTEE BREDEMEYER: It would possibly be, it's a demonstration, it might be underwritten by the grant as part of the research proposal.

MR. PATANJO: How do we go about doing that?

TRUSTEE BREDEMEYER: The grant is probably the first year or two will be at the Suffolk County Marine Environmental Learning Center at Cedar Beach. So I don't know what point that the incubator gets out, in other words, when we hatch the chicks and send them out of the incubator, but you can check with Chris Pickerel and Matt Sclafani are the lead scientists. We can provide the information on that. But in the interim, something in the order of coir logs and some revegetation and *Spartina* would seem to be fitting.

MR. PATANJO: Revised plans with coir logs and *Spartina* would be

acceptable?

TRUSTEE BREDEMEYER: I think that addresses the CAC concerns as well.

TRUSTEE DOMINO: Could you address the ten-foot non-turf buffer?

MR. PATANJO: In the work area?

TRUSTEE DOMINO: No, landward of what would now be the edge of the property.

MR. PATANJO: Inherently, there is a big non-turf buffer by way of the vegetation that is beyond the high tide line. In that area.

TRUSTEE DOMINO: I'm not talking about that point. Landward of the catwalk that you show. If you want to approach the bench, I'll show you.

This is the high water. In here. This way.

MR. PATANJO: Even in the area we are not doing any work?

TRUSTEE DOMINO: Yes.

MR. PATANJO: You want a ten-foot non-turf buffer along the whole shoreline, the whole entire property?

TRUSTEE DOMINO: Correct

MR. PATANJO: That's doable, I assume.

TRUSTEE DOMINO: Anyone else wish to speak to this application? (Negative response).

Questions or comments from the Board?

TRUSTEE KRUPSKI: Yes. If you have any problems getting in touch with anyone from Cornell to ask about this, you can get in touch with me through the office and I can help set it up.

MR. PATANJO: Thank you.

TRUSTEE DOMINO: Hearing no other comments, I make a motion to close this hearing.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I make a motion to approve this application with the understanding that we will be regrading and vegetation rather than the rip rap as proposed, and the addition of a ten-foot non-turf buffer, and the use of coir logs and a set of revised plans.

TRUSTEE BREDEMEYER: Motion has been made. I'll second that. All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I would just like to take a five-minute recess.

(After a five-minute recess, these proceedings continue as follows).

TRUSTEE BREDEMEYER: We are back on the record.

TRUSTEE SANDERS: Number nine, under Wetland Permits, Jeffrey Patanjo on behalf of **LANCE CARLTON** requests a Wetland Permit to construct 3'x135' timber bluff stairs to beach with associated deck at top of bluff, six (6) 3'x5' platforms, and one (1) 5'x8'

middle platform with two benches at each end. Located: 2230 Central Drive, Mattituck. SCTM# 1000-106-1-24

On October 17th, all Trustees were present at the field inspection. The notes basically say straightforward with no issues.

The LWRP has found this to be consistent. They make three notations: A vegetated non-turf buffer is established landward at top of bluff to further Policy Six. Existing vegetation should be included in the buffer. Minimize construction impacts to existing vegetation in the bluff face. Identify access and construction methods that minimize impacts.

The CAC has resolved to support this application.

Is there anyone here who would like to speak for or against?

MR. PATANJO: Jeff Patanjo, on behalf of the applicant. All work on this project will be done by hand from the top of the bluff. We have no problem with the non-turf buffer at the top. Other than that, if you have any questions, I would be happy to answer them.

TRUSTEE SANDERS: Any thoughts from the Board? Anybody else? (Negative response).

I'll make a motion to close this hearing.

TRUSTEE KRUPSKI: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE SANDERS: I'll make a motion to approve the application with added ten-foot non-turf buffer.

TRUSTEE BREDEMEYER: Is there a second

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number ten, Jeffrey Patanjo on behalf of **RACHEL CASHWELL** requests a Wetland Permit to demolish the existing two-story dwelling with associated deck and abandon existing sanitary system; construct a two-story dwelling (4,60sq.ft. total floor area) with a 165sq.ft. front porch, a 912sq.ft. attached seaward deck; install a new sanitary system landward of dwelling; install gutters to leaders to drywells on the dwelling to contain roof runoff, install storm drains for the driveway, and all in accordance to Chapter 236 of the Town Code-Stormwater Management; install a in-ground swimming pool on the seaward side of dwelling; and install silt fencing with staked hay bales around the construction site prior to and during construction. Located: 515 Harbor Lights Drive, Southold. SCTM# 1000-71-2-3

TRUSTEE GOLDSMITH: The LWRP found this to be consistent provided, verify the installation of pool dewatering well, require a vegetated non-turf buffer, and encourage the installation of an alternative sanitary treatment system.

The CAC resolved to support this application, however the

pool was not staked at the time.

The Trustees conducted a field inspection on October 11th, it was not staked when we went out on October 11th. Trustee Domino returned to the site on October 18th, found it to be staked, found that the house was going to be moved closer to the road, and that the pool was in the general location of the existing deck.

Is there anyone here who wishes to speak on behalf of this application?

MR. PATANJO: Jeff Patanjo on behalf of the applicant. The pool drywell can be installed. And I thought it was added on the plans but maybe not. But that's not a problem. We'll absolutely add one of those.

As far as the non-turf buffer, that is acceptable as well. And again, the house is being moved closer to the road, as well as the pool. And it's all in flood zone "X".

TRUSTEE GOLDSMITH: Anyone else here wishes to speak to this application?

(Negative response).

Any comments from the Board?

(Negative response).

Hearing none, make motion to close this hearing.

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: I'll make a motion to approve this application with the condition there is a drywell for the pool and a ten-foot non-turf buffer be installed.

TRUSTEE SANDERS: Second

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

MR. PATANJO: That will be noted on the permit or do I need revised plans?

TRUSTEE BREDEMEYER: Simple addition of drywells, we can do on the existing plans. You'll just have to get drainage approval from the Town, the process has to go to Building, and it has to go to Engineering anyway. So I don't think it's an issue. The drywell may actually be NJ, depending how far it is.

MR. PATANJO: Thank you.

TRUSTEE KRUPSKI: Number eleven, Patricia C. Moore, Esq. on behalf of **DAVID & COLLEEN BOFILL** requests a Wetland Permit to reconstruct existing $\pm 70.0'$ long wood bulkhead with new C-Loc 9900 Series vinyl sheathing bulkhead in-place and secured by three (3) tiers of 6"x6" timber walers along the seaward face, two (2) tiers of 6"x6" timber clamps along the landward face, 8" diameter timber pilings installed 6' o/c, all tied in by two (2) helical screws per piling, and all hardware to be hot-dipped galvanized; existing decking landward of bulkhead to be removed prior to bulkhead replacement and to be reconstructed in-place/in-kind using non-treated lumber; perform reclamation

of underwater lands directly adjacent to and seaward of the bulkhead within a 10'x18' area along the southerly section that has accumulated there due to seepage in order to meet an underwater elevation of -4.0' during ALW; the resultant reclaimed fill will be returned as backfill where needed along the landward side of the reconstructed bulkhead. Located: 5785 Vanston Road, Cutchogue. SCTM# 1000-118-1-1.4

The LWRP coordinator found this to be consistent. To further Policy Six, require the installation of a silt boom during construction operations.

The CAC resolved to support this project.

The Trustees visited this site multiple times, most recently, I, Trustee Krupski, visited the site on the 14th and as seen prior noted it was a very straightforward application.

Is there anyone here that wishes to speak regarding this application?

MS. MOORE: Yes, Patricia Moore on behalf of David and Colleen Bofill. This, as you recall, is going to be a bulkhead replacement with the neighbor's property, the O'Neill property. O'Neill was approved last month and Bofill this month so it can be done concurrently as one project. So that's all. If you have any questions.

TRUSTEE KRUPSKI: With regard to the use of a silt boom?

MS. MOORE: We can provide for that. I don't know if the O'Neill property has that as well. Um, typically the DEC does ask for it, so it is standardized. We can, if you put it in as a condition of the permit, we can provide it, so.

TRUSTEE KRUPSKI: Okay. Is there anyone else who wishes to speak to this application?

TRUSTEE BREDEMEYER: Sorry, just missed the last piece, talking about the silt boom?

MS. MOORE: Yes, if you make it a condition of the permit, I'm sure the contractor will abide.

TRUSTEE BREDEMEYER: It's important in this location, I think we discussed it in the field with the neighbors, that we lay out the depths and try to recapture material, the silt boom is inherently important.

MS. MOORE: Okay. Bruce Anderson is doing the DEC permit, so I'll let him know.

TRUSTEE KRUPSKI: Does anyone else wish to speak regarding this application?

(Negative response).

Are there any comments from the Board?

(Negative response).

I make a motion to close this hearing.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I'll make a motion to approve this application with the amendment to the description of a silt boom used during construction.

TRUSTEE GOLDSMITH: Second
TRUSTEE BREDEMEYER: All in favor?
(ALL AYES).

TRUSTEE DOMINO: Number 12, Patricia C. Moore, Esq. on behalf of **REUBEN & MARGERY DAVID** requests a Wetland Permit for the existing 2,154sq.ft. dwelling; construct a 4'x20.2' first floor addition; existing 42'x12.3' deck to be reconstructed and proposed to be extended 26.5'x8' south side & 12.3' north side along the rear of the existing house with new 4' wide stairs to grade; construct a 42.6'x10.5' screened-in porch below deck; construct a 4'x6' outdoor shower; install a new drywell; remove 8'x16' shed in side yard, and for the existing 4.3'x8.2' "doll house" shed to remain. Located: 1130 Glenn Road, Southold. SCTM# 1000-78-2-29

The LWRP coordinator found this to be consistent.

The CAC resolved to support the application with the condition of a 15-foot non-turf buffer.

The Trustees did a most recent field inspection on October 11th and noted that the application was straightforward. There is some comment to clarify from the dais about trees at this location.

Is anyone here to speak to this application?

MS. MOORE: Yes. Patricia Moore on behalf of Reuben and Margery David.

I'm not sure -- what's the question?

TRUSTEE DOMINO: I guess the first question would be a non-turf buffer, it's not shown on the plans. Would your client be -- the CAC is suggesting 15-foot non-turf buffer. Generally, the Board asks for ten-foot.

MS. MOORE: I mean this is a very small property. I think ten-foot is more appropriate. We do have a buffer of the reeds, so there is, we would be cutting back the grass, which is not a problem, either cutting back the grass or planting, but it is a very small piece of property as far as backyard goes. The house is close to the water. So if the Board would accept a ten-foot non-turf, I think that is certainly more appropriate.

TRUSTEE DOMINO: Could other members of the Board help me out, identify what was the issue with the trees?

TRUSTEE SANDERS: Do we have pictures?

MS. MOORE: I see the trees, we have trees that, I don't believe are going to be --

TRUSTEE SANDERS: It's up right here.

MS. MOORE: Okay, there is, that is one by the water, that's far enough away.

TRUSTEE BREDEMEYER: I guess it was a concern we didn't want to unnecessarily lose some large trees that are there.

MS. MOORE: I didn't think they had any proposed trees coming down, because when it was staked, it was really in the same footprint as the patio. So it was very small.

TRUSTEE SANDERS: Okay.

TRUSTEE DOMINO: I guess the Board was impressed with the trees and would like to see them remain.

MS. MOORE: Okay.

TRUSTEE DOMINO: Anyone else wish to speak to this application?

(Negative response).

Any questions for comments from the Board?

(Negative response).

Hearing none, I make a motion to close this hearing.

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE DOMINO: I make a motion to approve this application as submitted with the addition of a ten-foot non-turf buffer.

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: The next two hearings are interrelated in that number 13 is for a proposed dewatering and spoil site, and number 14 is for the actual work involved in the dredging of the entrance to West Lake for the request for ten-year maintenance. If there is no objection, I maybe would like to open both hearings at the same time.

How many people are here to speak on West Lake?

MS. MOORE: How about are here from West Lake.

TRUSTEE BREDEMEYER: How many people are here from West Lake?

(Indicating).

How many people not from West Lake wish to speak to this application?

(Indicating).

Never mind, I withdraw my notion of opening both at the same time. We may want to take them out of order. We'll take number 14 first, deal with dredging first and the spoil area second, as a matter of logical progression. So we'll open number 14, Patricia C. Moore, Esq. on behalf of **WEST LAKE ASSOCIATION, INC.** requests a Wetland Permit for a Ten (10) Year Maintenance Permit to maintenance dredge the entrance channel and a portion of the adjoining West Lake to a depth of -3' mean low water; approximately 95 cubic yards of dredge spoil to be removed, and temporarily diked and placed within the upland portion of the property located at 250 Midway Road for de-watering prior to removal of the material to an approved upland source. Located: West Lake Channel, Southold. SCTM# 1000-90-1-11

Is there anyone here who wishes to speak with respect to this application?

MS. MOORE: Yes, Patricia Moore, on behalf of the West Lake community. And I do have here with me many of the homeowners that surround West Lake and are the ones who rely on this dredging to be able to have riparian rights and access to the basin.

If you recall, the last time that the dredging was done it

was significantly more material, um, the Board had recommended, because it was somewhat contentious with the property owner Mr. Moy, who is at the front there of the property, on the east side, the Board granted a two-year with extensions, the work was done, but we do need to have maintenance dredging conducted so the basin can remain open.

The amount of material in this instance is a lot less, it's only 92 cubic yards, and this is a relatively straightforward dredging application with respect to the maintenance of the channel.

I'll answer whatever questions we have. We have, I know Mr. Moy's attorney is here, so I'll defer to whatever comments he has. I know you have the application, we also, West Lake, has conducted a study of the health of the basin and that is also part of your file.

They are very concerned about obviously maintenance of the ecology of the basin and also to maintain the navigation there.

So I'll wait and respond to any issues.

MR. SOLOMON: It's very unusual I get introduced by the applicant. My name is Michael Solomon, I'm representing Dai Moy who owns the house which is adjacent to the channel, and 106 Mulberry Corp., and the Estate of Sim Moy, which owns the vacant parcel which is directly adjacent to the channel.

This application has become a problem in many respects, but the first thing I have to bring to the attention of the Board, and it has not been brought up in the past, but the relationship unfortunately between my clients and the association has never been a good one. There is a lot of history, which I won't bore the Board with at this point in time. But I do want you to know that on October 6th we received a letter, or it was mailed on October 6th, from Mrs. Moore's office directly to my clients, basically requesting my clients should forget the past, move on to the future. And I looked at it as an olive branch being extended, which I believe it was supposed to be. My reactions, I didn't get that letter to probably a week later, it was first mailed, my client received it, was to request Mrs. Moore an adjournment of this hearing today to see if we could work things out before I would have to make this more contentious to the degree this has to be contentious. I just want you to know despite the olive branch, the request to Ms. Moore was turned down, so I'm forced to be here today and present my position.

The most serious position that we have is if you look at the map, you'll see the green lines, where they technically run right across the canal, which is supposedly this road, West Lake Drive. And that is on the tax map. The road at one time when it was developed in 19 -- when this development was created back in 1926, and I have smaller copies I can show, but effectively, the road that passes over West Lake was on the original plan, to be a road to go across. If my client was here to testify today he would tell you when that when they bought the property in 1960, you literally could walk across this canal at low tide.

And that is the history. But now the problem with the road, or West Lake, West Lake Drive, we have done a thorough search, and I can hand this up to the Board now. West Lake can't establish the fact that they own that road. There is no deed of record to that road. So anything granting, requesting a grant of access across the road to do any dredging would not be permitted without the consent of the owner of the property. They are not the owner of the property. I have not seen a deed. We searched the record. It appears -- and I'll hand this up, I have more copies --

TRUSTEE BREDEMEYER: At this point with respect to processing the application we won't be able to consider that and probably we are going to have to hold this matter off, because we have a limitation, all paperwork has to be submitted a week before, you can understand the Board --

MR. SOLOMON: That's fine. As I said, it becomes more contentious. And I advised Ms. Moore of this when I called, I said this is one of the issues we need to address. Because if you are looking to come across property, my client's position is they controlled that whole parcel from the bay front right to the back, since 1964. As a matter of fact, there is a, whoever visited the parcel, there's actually a floating dock and dock on the West Lake side of the property, all permitted by my client. The Trustees gave my client a permit for that more years ago than I can even remember. The Trustees gave my client a permit for the bulkheading for the entire run of the property more years ago than I can remember. So the indicia here, all the indicia is that property belongs to my client. And other than being confronted with a deed which establishes that they own it, I would object to their going across the property to do any dredging. And that's the first issue. If they want to go, let them go on the other side of the canal to do the dredging until such time as they establish ownership. Because without ownership, I don't see how you can give them a permit to permit them to go across property --

MS. MOORE: Yes, but --

TRUSTEE BREDEMEYER: Hold on, we are not doing this.

MS. MOORE: I want to address one issue at a time because this is a non-issue.

TRUSTEE BREDEMEYER: Let Mr. Solomon finish, and I have some questions.

MR. SOLOMON: That's issue number one. Issue number two is this channel has become a major problem because it's continually filling with sand and continually requiring maintenance. And continually by doing this type of dredging is affecting the structural integrity of my client's bulkhead. And this was addressed when I was here back in 2012 or 2013. My client continues to come and make repairs, but they keep coming out and now wanting to get a maintenance renewal.

I believe the integrity of the seawall would only be affected by this constant requirement for dredging, and I'm suggesting that

the sand that is clogging this channel has nothing to do with my client's bulkheading, it has to do with the movement of water through storms and everything through the channel. And I don't believe that, at a minimum, they should be granted any ten-year permit to do anything. I mean this has to be something that has to be revisited by this Board on some regular basis. Because the odds, with this continual dredging, if it will be maintenance and they are out there dredging every year, it's only a matter of time before my client's bulkheading is going to be detrimentally affected, and they should not have to bear the consequence of an estimated hundred-thousand dollar repair because West Lake now wants to dredge. Because that would be roughly the cost of replacing that bulkhead if the bulkhead goes down.

I did say, for whatever it's worth, it almost appears that was never made to be navigable. Because we are constantly back here, back here and back here again about trying to keep the channel open. Historically, as I said, my client actually would drag their boats out. And people are putting bigger and bigger boats in the back, expecting more water depth in order to bring out the boats with their engines. And I don't believe that was ever intended when that was established in 1929 when the developer filed for the original subdivision here.

And I believe that's basically the issues I wanted to address to the Board.

TRUSTEE BREDEMEYER: Before you leave, Mr. Solomon, a question for you. Do you purport any ownership at all -- you are talking the whole road here. Are you reporting the Moy's own this section of the road?

MR. SOLOMON: I'm purporting there is no deed, that I'm aware of, unless Pat going to pull something out right now. Because we did a full search. And I'm not saying there can't be a document the title company missed. We'll take a look. And because it is contentious -- if I can approach. This whole parcel from here to here. In here. There is no deed recorded. The only, it's what I handed up. The only ownership that potentially can be claimed by this would be originally, the Cedar Beach, which came in the 1920s.

TRUSTEE BREDEMEYER: Is this a single and separate, this particular lot, single and separate lot to the mean high water mark?

MR. SOLOMON: The answer to this dock, this was permitted by the Trustees back in, 30 years ago, for my client to put a dock back there. And it appears as a floating dock.

TRUSTEE BREDEMEYER: The Moy's or their predecessor?

MR. SOLOMON: No, it was to the Moy's. But this shows now, this shows now, as owned by the Town of Southold.

TRUSTEE BREDEMEYER: You are saying which simply by virtue of -- these map lines are not considered accurate for purpose of title.

MR. SOLOMON: But they designate this, the Town of Southold right

now. I guess accretion or whatever, but this was permitted by my client years ago.

MS. MOORE: If we could --

TRUSTEE BREDEMEYER: I appreciate your information. Now let's continue.

MS. MOORE: So now let's get to the facts and the truth.

MR. SOLOMON: This is not the Trump debate.

MS. MOORE: First, ownership of the road. I guess Mr. Sim Moy has passed away

MR. SOLOMON: That's the wife.

MS. MOORE: All right, Mr. Moy. There was an application by Mr. Moy to build a house on that corner property. That went through a lengthy Zoning Board hearing. During the lengthy Zoning Board hearing, the Zoning Board and Mr. Moy was put right on the record and was asked do you acknowledge that the road is owned by West Lake, that you do not own the road. On the record, it was stated he does not own the road, that West Lake is in fact the owner of the road. And in his variances from the Zoning Board of Appeals, all the variances were being taken from the edge of the road. So on record, through a quasi-judicial hearing, which is a Zoning Board hearing, there a transcript that clearly states there is no issue with respect to the ownership of the road.

I can also tell you that as a matter of fact, on behalf of Cedar Beach, and West Lake, I have a deed from Toedter, the deed is not recorded because one deed included the roads from Toedter, who was the original developer, there was a deed prepared, but that deed included all the roads of Cedar Beach and West Lake. Because of the fact that it's all appearing on one deed, it has not been recorded. But there is a deed from the original developers giving West Lake and Cedar Beach the ownership of the road, at least as to their interest and that was the only interest that was available at the time, because everybody had since died. That was done probably ten years ago, 15 years ago.

So the issue of a road is just one of those things that keep being brought up, and it is absolutely irrelevant. This road is West Lake Road, it appears on the original map as a road that the original developers had intended to maintain and possibly dedicate them to the Town because they are 50 foot roads, but they never were dedicated, and so they remained as private roads. So that issue is absolutely resolved, absolutely irrelevant, Mr. Moy does not own the road.

As to the second issue of the filling in and the structural integrity, Mr. Moy has had wetland permits for the replacement of now a 60-year old bulkhead. For the past 20 years he has chosen not to replace the bulkhead. It has been a source of frustration by the community because we have pleaded with Mr. Moy, please replace your bulkhead. In fact, you know, because there were complaints I guess registered since there is a permit for the bulkhead, he has repaired and maintained, in quotes,

because it's quite questionable, that bulkhead. He had an excavator out there about two weeks ago, we have photographs. But again, I had everybody that called me on it, stand down, because the, legally, it was a permitted bulkhead and therefore he's allowed to repair it or maintain it. And the fact that he filled giant-sized holes that were adjacent to the bulkhead, about two or three days before this Board inspected, was a matter of quite interesting the timing, but nonetheless, he keeps maintaining, repairing, the way he wishes to do it, which is putting sand on the landward side, and we don't know what he's doing on the inside of his bulkhead. We think it should be replaced but it's not our responsibility to replace it, and all we can do is carefully dredge the basin, and quite frankly it would be much more beneficial to us if he would replace the bulkhead, because then the dredging could be further out, could be wider. But because he's chosen to maintain the bulkhead the way it is, we have to maintain an angle that leaves behind a dredging area, an area that is at best, what, five feet? It is the minimal amount of dredging that is possible given the condition Mr. Moy chooses to leave his property to leave the bulkhead.

On the other side, the Greenfield property, that Mrs. Greenfield did replace her bulkhead several years ago, which was good, but when she replaced it, the Board and DEC allowed her to replace the bulkhead in front of, within 18-inches, of the existing bulkhead. That left the basin narrower. It has also created problems for the community because as that basin got narrower, fewer and fewer contractors are available to be able to dredge. It has limited the access to contractors. We have to possibly, and I know the Board has been talking to me about possibly having to have two separate contractors, one that comes from the water, because they can't get the boats in through there.

TRUSTEE BREDEMEYER: We are getting a little far afield.

MS. MOORE: I'm giving you a background as far as the history.

So bottom line is West Lake owns the road, Moy does not own the road, end of that discussion.

MR. SOLOMON: Just briefly on that.

TRUSTEE BREDEMEYER: One second. I think we have had a document submitted tonight that we have not had a chance to look at, and there is probably a documentation with respect to which you speak as far as former testimony before the Zoning Board of Appeals and other documents purporting ownership. So it's probably appropriate for the Board to table the matter, take additional comment you think is pertinent for the Board to hear, but table the matter to allow for submission of additional documentation. In other words specifically bringing to the Board's attention, the ZBA transcript and any deeds that are pertinent to this.

MS. MOORE: That's fine.

TRUSTEE BREDEMEYER: There is a marine study that is in the file.

The Chairman of this Board responded to a marine complaint there as an investigative with the Suffolk County Department of Health, and at the time this was closed up when I responded in my capacity with the Marine Section of the Health Department, the body of water was anoxic. We know that the land use practices that we all engaged in at this time probably put more nutrients in the body of water. It was so anoxic at the time I responded that the eels and crabs were climbing out of this body of water, succumbing to an absolutely lack of oxygen, which was measured with a dissolved oxygen meter.

So with respect to keeping bodies of water open, in other instances, and this I'm speaking with respect to what this Board sees the Department of Environmental Conservation and the Trustees, will allow dredging in some instances to absolutely protect the environmental health and integrity of a body of water. So it's not only amplified by a previous governmental response, but there is also an ongoing marine study that bolsters that. I just want to put you wise to the fact we are going to go through a big discussion of he said/she said and a whole bunch of documents, but do you really want this to be closed off and die? I don't see how this is going to serve the interest of the Moy's, who apparently have a dock there. It's something to think about.

MR. SOLOMON: Historically, what I said, when the Moy's bought the property, they just carried the boat across. That's what they have done. But I just want to address the two issues that Mrs. Moore brought up about this ownership. And counsel for the Board can very easily answer this one. Even if my client did, and I don't believe he did, make a statement in front of the Board of Zoning Appeals that somebody else owns the property, that's not an indicia of ownership. It has nothing to do with ownership. It's not legally binding, it's nothing. You just heard Ms. Moore acknowledge there is a deed floating around. So as this application is here today, she can't tell you there is a recorded deed to the property. Which quite honestly makes this a premature application. Because they don't even own the parcel that they are claiming that they want to cross to do it. On their theory. My client is still claiming that he has ownership of this particular section, and quite possibly before we even come back there will be a supreme court case brought to determine who in fact does own this. Because I don't know what her chain of deeds are, because Cedar Beach doesn't own this. So I don't think, if she thinks she is getting it from Cedar Beach. They showed the original developer is still Queens Operator Corp., the original developer, is still the record owner. But I don't want to bore you with that anymore. I just want you to be aware of the fact there is actually an admission the deed is not recorded. Okay? So the deed is not recorded.

MS. MOORE: There is absolutely no legal requirement, as you know, to record a deed. So as a matter of record there is no obligation to record a deed. We have a deed, and we will

provide it. It is not a relevant issue so therefore we don't like to walk around with deeds and send it to the Board, but if the Board wishes to have a copy of the deed, we will share it with them, so.

TRUSTEE BREDEMEYER: I would say any indicia of ownership, including deeds, title insurance or whatever, should be submitted.

MS. MOORE: I think if Mr. Moy claims to have ownership, please provide us proof of that. To our knowledge, no one in this association owns the road. And nobody has claimed ownership of the road other than Mr. Moy.

MR. SOLOMON: It's a very simple issue, just produce a deed if you have one. And I asked you ten days ago, give me a deed.

TRUSTEE BREDEMEYER: Speak to us, please.

MR. SOLOMON: I just ask this public hearing section be kept open, because I'm going to want the ability to respond if we are now going to come in with legal documents that very well may require some legal argument on behalf of the Moy's.

TRUSTEE BREDEMEYER: The Board has so much new material in the file to deal with so many additional things that the Board will certainly want to keep this matter open. And also to put everyone on notice that, for this matter, this matter has to have materials in at least seven days in advance of the next work session of the Trustees, or explicitly, seven days before the next meeting. So it has to be -- otherwise we are not going to be able to bring this to some level of discernment. In fairness to the Board, we have to see these materials ahead of time. We are meeting the next on November 16th. Really I want it well in advance of the work session on the 14th.

MR. SOLOMON: That's fine

MS. MOORE: That's fine. We'll get this to you.

TRUSTEE SANDERS: Just a quick question. Sometimes we get so confused with all legalities that go back and forth. I'll cut to the chase. What would make your client happy?

MR. SOLOMON: No matter what happens here, we need to determine, my client believes he has all indicia of ownership. Because he has been there since 1964. And basically used it since 1964. Including the boat dock we pointed out in the back. So we really need to quiet this issue. So if there is a deed, it's very simple for me to look at the papers and potentially sit down.

TRUSTEE BREDEMEYER: So theoretically, if your point is made and true, in a simple manner what would make your client happy?

MR. SOLOMON: I feel I'm in a debate trying not to answer your question. But I don't believe it's proper for me at this point to answer the question until the information is provided.

TRUSTEE SANDERS: Okay.

MR. SOLOMON: Mr. Chairman, members of the Board, thank you, for your time.

TRUSTEE BREDEMEYER: Is there anyone else, briefly, to speak to this? And please try to keep your comments succinct.

Understanding that we have a lot of materials coming in, the Board will be reviewing it. Thank you.

MS. GREENFIELD: My name is Barbara Greenfield and I'm the part owner, our family, of the property on the other side of the canal, and I just want to be on record as saying that as owner of that property, we have concerns with the increased flow and the affect it will have on our bulkhead, and we want to be indemnified if there is damage done, and we believe that ten years is too long a period to go, and that it be regularly looked at every three years, at least, to see if there is damage that is being caused by this increased flow. And that's it.

TRUSTEE BREDEMEYER: Thank you. Anyone else, briefly?

MR. DEFEIS: Douglas DeFeis, I live in Southold, West Lake. If I could speak to three things. My father-in-law built a house in West Lake in 1969. It was bulkheaded. Pre-Wetlands Act. And he had a 27-foot boat. And I have photographic evidence of it not being needed to be dragged or anything. The bulkhead that was installed when Mr. Moy purchased the house in the 60s, that is permitted. Part of the conditions of his permit is to maintain it. And part of the conditions to maintain his other permits was to maintain that work was done. It's never been done. That bulkhead is 60-years old. We are talking about giant weep holes that you can put swimming pools in. So what I believe what they really want is us, the association, to pay for their new bulkhead. Number one.

The dock that was put in, was put in after the Wetlands Act in '73, '74. That dock was put in in the 80s, and it was done without a permit. So there are a lot of issues here. You know, every time we have done an action in 25 years, we have been forthright and come to the Board with every little motion we ever had to make. When I personally had to build my bulkhead, the Board arbitrarily said you have to build your bulkhead back four feet. Not like Ms. Greenfield who was allowed to put a bulkhead in front of the other bulkhead. So the thinking at that time, I guess was, if you keep putting bulkheads in front of bulkhead, you know, you would be across to the south shore. So it seems quite arbitrary. I mean, I have been a victim of some of the, you know, arbitrary nature of this process.

TRUSTEE BREDEMEYER: Make it quick, just focus on this issue.

MR. DEFEIS: In general, the three things I can speak to are that dock was put in in the 80s, it was not permitted. Number one. Number two, I have photographic evidence of boats never having to be dragged at any tide. So, and the third thing is we always had that road, we maintained that road. They benefited from that road. We spend \$4,000 a year making sure that road is passable so he can even get to that property. And we have gotten nothing from them but grief. For decades. And when he's asked today what do you want, what does he come up with? I'm not ready to speak at this point because I don't know.

TRUSTEE SANDERS: Our goal is always to try to keep things as logical and remove the emotion as we can. It's not easy and it's

understandable you have issues.

TRUSTEE BREDEMEYER: Thank you.

MR. KAMINER: I'm Henry Kaminer and my wife and I own 130 Midway, which is on West Lake. We own the property. 130 Midway. I have owned this property since approximately 2002, I think. I'm not sure when I bought it. And I have been through this kind of turmoil quite a few times, unfortunately. And I heard when I first arrived that, in the past, there was some horrible arguments between the Mr. Moy or the Moy family and some of the people living around the lake. I don't know any details but it was a long time ago, all those people are dead or moved away. So I don't want to be tarred with the idea of hostilities. There is no hostility between us and the Moy family. We say hello to each other if we pass each other.

Somehow there has always been some concern about dredging, and the Greenfield family worries that their bulkhead will be hurt. Their bulkhead has never been damaged by dredges. They never had a lawsuit against the dredger or the association. Mr. Moy's bulkhead has never been damaged by the dredgers. If it had been, they would have sued or they would have complained.

TRUSTEE BREDEMEYER: I think we are not dealing very much with the specifics. We are getting off the tracks of the specifics here, and understand we'll be getting more information in.

MR. KAMINER: The specifics are the details of the road, I don't think have that much to do with whether we should be allowed to dredge. And we should be talking about the fact that the channel used to be six feet deep and now somehow over the years the Town has said it can only be dredged to three feet. It was originally safe to be six feet deep. And somehow in the last ten years or so it was changed to three feet. And now they are saying even that is dangerous. It does not endanger the bulkheads. The bulkheads endanger the channel when they are full of holes and sand drifts through into the channel. And then we have to just, we have to scoop it out somehow. That's enough.

TRUSTEE BREDEMEYER: Thank you. Okay, I would like to wrap this up. Please, okay, very quickly.

MR. SCHAB: I'm David Schab, I'm the Vice-President of the West Lake housing association. And I'm here to support our application. I'm also concerned that our application will be put off for a month because we have less of a window to dredge. We came and we have been trying to reach out to Mr. Moy and we want a cooperative relationship, we know there were problems in the past. We are desperate to put all that behind. We want to cooperate with you and I know Mr. Moy wants to build, we would like to potentially support that application if he can work with us. We don't want to have to put up a big fight like we did last time. We can all benefit from, really from working together. I really, really think so. And everybody would save a lot of money and aggravation. That said, I should point out the frequency of the dredging has increased over the years in

part because of Mr. Moy's activities. May I approach the Board?

TRUSTEE BREDEMEYER: You may.

MR. SCHAB: Until a week ago, there were enormous holes along here that were piping sand through. That's number one. Number two, if you can see on the side, these two bulkheads, despite the objections that the Greenfield's have put up, they have maintained their bulkhead nicely, and as well as their groin. The Moy's, on the other hand have, were repeatedly given permits by the Town Trustees to repair or replace in kind and in place their groin here. These two groins used to be of equal length and equal height. And over the years, what you guys gave them permits to repair in kind and in place, instead what happened was they cut the length of this in half, they cut the height of it down about half, and they angled it out. It used to be parallel to this. And they also moved it over about 18 inches. So essentially we are no longer protected from the east. And everybody we had come look at the hydrology of this area had said that in fact because of the shape of the hog's neck and the way it protrudes into the bay and the way the nor'easters come in here, that this is a disastrous situation here. And it has contributed to the filling up of the inlet. And on top of that, um, well that also this groin that Mr. Moy added in here to protect his unpermitted dock has also prevented, has also interfered with dredging and it has prevented the flow of water out of here and caused sand to build up around it.

So far from our being troublemakers in this inlet, it is actually Mr. Moy's, behaviors of the Moy family here have actually contributed. We would love to put this all behind. We know he was not looking to fill in the inlet. We are sure he was doing whatever his marine contractors were advising him to do. We want to work with them and make everybody happy. Thank you.

TRUSTEE BREDEMEYER: Thank you. With that said, I would like to close this matter for further discussion and table the matter to allow for submission of the documents we requested, and any other information with respect to photographic evidence with regard to the historic use of the channel. The Trustees have to look at the permit history of some of the associated structures. Unless anyone really wants to stand on their right to have one last comment, I'm going to move to table this matter.

(No response).

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Thank you, for coming this evening.

MS. MOORE: Are we going to talk about the dredge spoil? Just very quickly?

TRUSTEE BREDEMEYER: I think 13 will be one that is intimately involved with this, so. But we'll open it up.

MS. MOORE: Only because you'll want to know about this. Just a

courtesy, I want to make sure.

TRUSTEE BREDEMEYER: Okay, at this point we'll open up item 13 for the hearing.

Patricia C. Moore, Esq. On behalf of **DAVID SCHAB & ARIEL KAMINER** request a Wetland Permit to utilize the property as a de-watering site for dredge spoil taken from West Lake.

Located: 250 Midway Road, Southold. SCTM# 1000-90-1-9

MS. MOORE: Thank you. This is the dewatering site on Mr. Schab, who just spoke, he's very generously offered his property over the years as a dewatering site. The amount of material in this instance is so small, it is 92 cubic yards at maximum, and if we end up with two different contractors then the material will be even less, because the contractors have their own locations.

What we were asking the Board, and again, I think that the proof of the road ownership may be relevant in this matter, what we had proposed and we submitted to the Board a drawing of placing a minimum amount, well the dredge spoil for dewatering at the end of the road end. In accordance with proper storm water standards, really, it's really placing hay bales, I delivered it or we E-mailed it, do you have it in your file?

TRUSTEE BREDEMEYER: It's in the West Lake file.

MS. MOORE: Okay, I just want to make sure. We have the hay bales all around the perimeter of the property lines, we also have a secondary hay bail with silt fence for the containment area, and we are hoping that can be then dewatered, which we don't think, depending on the contractor, he says it can be a couple of hours or it could be a day.

TRUSTEE BREDEMEYER: That submission of course came in after the deadline as well, so it's the Board will have to look at that.

MS. MOORE: I just want to make sure you have it for this meeting.

TRUSTEE BREDEMEYER: I think we'll have to review that for sufficiency with the project plan. But let me, for point of clarification, so if the ownership of the road, which would be by the association, then the plans we still have to review for possible dewatering the spoil would also be on the property of West Lake so we are not going to need a separate permit, we don't won't need separate permission.

MS. MOORE: Correct. And our goal is because the Highway Department would then take the material, the dried out material for beach renourishment of other properties. Vinnie Orlando, the Highway Superintendent, welcomed that material, so --

TRUSTEE BREDEMEYER: And conceivably, Mr. Moy in friendly discussions amongst the neighbors could use material while he might contemplate the needs for the next repair. The Trustees did respond to a complaint and did recognize the repair was an ordinary repair he had done. We tried to be realistic on this, and there is also, we also responded to some concerns that there is a phragmites, permit for removing phragmites on the Schab property there is an area that was disturbed that probably needs to be dialed back a little bit. We'll have a separate

communication with Mr. Schab with respect to that. Since we are all in the same party, in the same soup here, I just wanted to put that out there.

MS. MOORE: Okay, that's ultimately that is where I think, yes, in the letter that we sent out that went from West Lake, it was not from me, it was West Lake letter, went to Mr. Moy and his, we did it combined with my required certified mailing so that he would get the letter simultaneously. We thought he might look at it questionably if we sent it first and then sent the certified letter. We didn't know how it might be taken, so we sent them both at the same time. We did say that material that would be available should he want to replace his bulkhead at this time, we would certainly cooperate with him and give him access to the material. So we thought it would be a cooperative venture, that he could save himself a lot of money as well as the permitting process that would be entailed, so.

TRUSTEE BREDEMEYER: Thank you. I don't think we'll be in a position to move on this. It should be also tabled. Because also the questions concerning the term of any permit and activity surrounding, obviously they are interlinked in the use of the spoil area. Anyone else wish to add additional discussion on this spoil site?

(Negative response).

Hearing none, I'll make a motion we table item 13 also to consider at that further in the context of the entire project.

TRUSTEE KRUPSKI: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: Last item, number 15, Patricia C. Moore, Esq. on behalf of **MICHAEL JOEL COLODNER & SARA WINSOR COLODNER** requests a Wetland Permit for the existing two-story dwelling with attached garage, existing storage building and outdoor shower along rear of dwelling; demolish existing stone patio and construct a 25'x30' upper patio with outdoor grill and counter top; construct a lower 1,244sq.ft. patio around proposed 16'x36' in-ground swimming pool; install a pool drywell; install an 8'x8' hot tub; install pool enclosure fencing, and the installation of hay bales and/or silt fencing to be installed prior to and during construction. Located: 130 Willis Creek Drive, Mattituck. SCTM#1000-115-17-17.8

This application, the Trustees performed a field inspection last week, and we measured off the 50 foot non-discover bans zone, and it is nearly identical to a survey that came back for, this is from our archives, right Liz?

MS. CANTRELL: Yes.

TRUSTEE BREDEMEYER: Archives brought up the land survey have in a copy of the permit issued by the Trustees on June 4th, 1997. And in reviewing the land survey that was associated with that, it is in keeping with the shoreline and wetland perimeter has not changed that much, and that particular survey shows a limit of construction with hay bales that scales out exactly to the

one inch equals 50 feet as representing what we found on the field inspection last Tuesday.

So as a point of opening this hearing, I just wanted to bring that fact to the Board. And our field notes indicate that we measured 53 feet to the wetlands from the southwest corner of the patio, and it was just slightly over 55 feet to the northwest corner of the proposed patio. We did notice there was a slight incursion into the 50 foot zone in the lawn area. In other words, the existing lawn area, the difference between those two measurements, 53 and 55 feet, in other words we are talking four to six feet of incursion into the 50 foot non-disturbance zone where the lawn was put in.

So I just want to open up the hearing with respect to the fact pattern that it measures out that your application as proposed does honor the prior Trustee permit and the field measurements we found.

MS. MOORE: Good. Thank you for clarifying. I was not sure where we were going.

TRUSTEE BREDEMEYER: So what we are talking about, within about five feet, in other words, within about five feet of the pool deck, the area should then be reverted back in to allow the trees to grow so the full 50 foot is being honored.

MS. MOORE: Well, here is the practical problem with that. I don't see my client having any issue, because her plan is landscaping, is to return that area to a landscaped area. But trees create shade that are really difficult for a pool. So to plant more trees, they were actually looking to possibly trim some of the trees because of the shade that it creates.

TRUSTEE BREDEMEYER: I would say we are not asking to plant. We were just saying let it naturalize.

TRUSTEE KRUPSKI: Yes. Non-disturbance, not like a planting thing.

TRUSTEE BREDEMEYER: And I don't think the Board will want to see any tree trimming in a non-disturbance area. I think if the applicant takes a very hard look at where they are at and where they want to go with the swimming pool, there are going to be, they are going to be up against a decision whether they want a lot of leaves and a lot of acorns in their pool, even with a pool cover. They might be better, the Board, we have to deal with what is in front of us. But they might well consider moving the pool to the side of the house where there are non-native trees as well as some native, but it's not close to the wetland, where they could amply prune the vegetation, get sun in to keep their pool warm and keep the detritus and the leaves and the acorns out.

MS. MOORE: We were trying to create a pool that would conform to zoning. The problem is when you are dealing with a pool and a side yard, you have to go to Zoning Board to get permission to encroach into a side yard. So that was the reason it was placed where it was. It's actually put --

TRUSTEE BREDEMEYER: It would still be within a hundred feet, it

would require comment from the Board of Trustees, the Board can take the comments, in other words, the Zoning Board of Appeals it would defer to us or if there was an issue, because we have already made a suggestion to relocate the pool for environmental reasons. I'm sure the Zoning Board would want to hear that.

MS. MOORE: I don't think the Zoning Board would object to a pool in the side yard. I have done lots of variances for pools because they are technically in the side yard. It's just the whole additional expense and process. But I'll pass that on.

TRUSTEE BREDEMEYER: I would not want to pace bad on your client, but literally several houses away we went to a site that mirrors this almost identically, and after granting permission for a pool, we were back with the bay constable. As I'm saying, I don't mean to project, but the site-specific conditions are the same. It's going to be a very cold pool exposure with a lot of shading and so if somebody calls the contractor in without permission and the particular site in question not only went in town court, they have to plant a lot of new trees.

TRUSTEE DOMINO: I just want to point something out to the President the Board. This line is a non-disturbance line, notice that, it goes over 25 feet.

TRUSTEE BREDEMEYER: It's not accurate.

TRUSTEE DOMINO: This is totally different.

TRUSTEE BREDEMEYER: Right, the non-disturbance line on the John Ehlers survey which we received --

MS. MOORE: Oh, what we did is because the non-disturbance, it was not a covenanted or anything, it appeared on the survey. And John Ehlers was not very happy with us because I was forcing him to go back to somebody else's survey to try to map the Young & Young survey's line. So he actually took the Young & Young survey and then plotted the non-disturbance, the 50 foot measurement that created, that he put that non-disturbance buffer line, which is what came from the Young & Young survey.

TRUSTEE BREDEMEYER: All right, we are not going to judge one survey with the next. What we have is the hard facts of the Trustees flagging this and we actually stuck our flags in the 50 foot line.

MS. MOORE: I understand. What I'm saying when the survey, this non-disturbance was before the house was built. It was with the Young & Young survey. It was mapped on that survey. In the past what, 15, 20 years, you have it change to the shoreline, and the 50 foot distance now is being, you are imposing it 50 feet from the new wetland line, when in fact the Young & Young line is what we asked John Ehlers to show. That's why his notation is non-disturbance shown here on scale from survey from Young & Young, last dated April 2, 1997. So we were trying to figure out, it could have gone either way, we didn't know what we were going to find when John Ehlers mapped the Young & Young survey. He mapped it and he gave it us to us, and we were, oh, good, we are not in violation. That was my concern. We could have easily seen that non-disturbance fall, I don't know, right

behind the house. We didn't know what we were going to find. That line is the non-disturbance line, so.

TRUSTEE BREDEMEYER: Because we don't have a file restrictive covenant locked in and I'm at a loss to see why the Young & Young survey matches so closely to what we found in the field. I'm not here to grade the work. So we are going to have to, I think the Board has to go with the measurements we took, which reflect what we see as a 50-foot non-disturbance now, and that in considering a pool application, here, I think we are going to have to look at formalizing the line based on how we flagged it, and if the people you represent are interested in a pool, then we'll have to have, we'll have to formalize the non-disturbance buffer at the 50 feet as conditions exist now.

MS. MOORE: That's what I'm asking, it's a 50-foot non-disturbance is just such a, it's such -- non-disturbance is a real penalty to any property. I don't have an issue with a 50-foot buffer or a 50-foot landscape, but the non-disturbance is -- TRUSTEE BREDEMEYER: 50-foot non-disturbance buffer, which was a grant to allow a house being built by the prior Board of Trustees, I don't know how the rest of the Board feels, a 50-foot non-disturbance buffer, we already questioned the siting of this pool. I would be totally against anything less relaxed.

The shoreline in this area, this is a low energy creek. The shoreline looks stable. It probably has not changed since 1997.

TRUSTEE SANDERS: It's a matter of going back in the day, you can have a house, 50-foot non-disturbance, now all of a sudden, well, we want a pool and want to modify a couple of things. You cannot have your cake and eat it, too.

MS. MOORE: I understand what you are saying. I do. It's just from the site conditions, I could see that what made sense here was that the bank is essentially not touched. It was the bank on the creek is clearly non-disturbance.

TRUSTEE BREDEMEYER: What we have been asking, so there is a clear discernment for new owners between non-disturbance areas, is we ask for a low profile fence or retaining wall as a delimiter, so not only on the survey for the finished project but also in the filed restrictive covenant in the deed they have matching lines so the future owners clearly understand the limits. In this case, the recently flagged line that we made would be a great location to have, whether it's a low-profile split-rail fence, some permitted curbing, like railroad ties or landscape ties, and a file consistent with it, that way they understand what is a non-disturbance zone and what is their pool.

MS. MOORE: I'm not -- you are not being unreasonable in creating a delineation between activity and non-activity, I understand that. What I'm suggesting is given the topography of this property is you have clearly non-disturbance area, which is that whole grade, and in fact there is a fence there that looks like it was put there, because there is a gate to go to the dock. If you go back to the Young & Young survey, that is about where,

just around where the fence is now. So my thought was to create the non-disturbance but maybe create a landscape buffer so you can have landscaping non-turf but not, to me non-disturbance is so onerous. I mean this owner or prior owners planted Christmas trees, like those big evergreens in that area, and I think one of the comments Mr. Domino made was those trees are not even indigenous, they are not the right plant.

TRUSTEE BREDEMEYER: We'll have to take a more detailed look at the survey.

MS. MOORE: Do you want to go out to the field? Would that be helpful?

TRUSTEE BREDEMEYER: I think the Trustees have been there. We have the Trustees 50-foot flags that are in the ground from our measurement, and we are going to, I think I'll advise that we table this and scale it out on the surveys and take it up at worksession and then we'll advise --

MS. MOORE: I'm not trying to create problems, believe me, I'm not opposing your --

TRUSTEE SANDERS: What difference is it if we go back into the field and --

TRUSTEE BREDEMEYER: Sorry, we are having a discussion here. What benefit is it to go back into the field? We already measured 50 feet and they have a 50-foot non-disturbance buffer.

MS. MOORE: Well, because the 50-foot non-disturbance, that's what I'm saying, is we had it professionally surveyed to identify the non-disturbance based on the Young & Young survey. We are comparing apples and oranges. We are comparing the apples of the survey from Young & Young from 1997 versus what we have there today, so.

TRUSTEE BREDEMEYER: What about this. Before we go back in the field, let's have maybe the area Trustee who is Glenn Goldsmith do a quick stop by to verify the flags are in the same spot, have John Ehlers put them maybe on the survey so relationally we'll have, we'll know and then also give John the opportunity to look at the Young & Young survey again from our old permit file so that --

MS. MOORE: That's the one I used. I actually gave him the old permit. That was the only one I had. I had the old one

TRUSTEE BREDEMEYER: So if there was a misinterpretation of the line, in other words it was some need for him to perform either a correction or as facts are developing to give him the opportunity to put the flags on it, then we'll all take another look at it.

MS. MOORE: Can I ask you, you said the survey John Ehlers used was dated April 2, 1997. Is that the same date that you have?

TRUSTEE DOMINO: January 6th, 1997.

MS. MOORE: January. Okay, this is later. April 2nd, 1997.

TRUSTEE DOMINO: It has both. April 2nd and January 6th.

TRUSTEE BREDEMEYER: He did the revision. Instead of going down, it's going on up. So April 2nd being the latest.

MS. MOORE: April 2nd being the latest. That's the one he used.

TRUSTEE GOLDSMITH: I just believe the issue is we are not going to allow any tree trimming in the non-disturbance.

MS. MOORE: I don't have a problem with that. It's where we call the non-disturbance is the issue. If you call the non-disturbance measured as we see it, the 50 feet from the original '97, that is not a problem, because that's never been touched. What you guys are expanding it by about 25 feet and that's where I'm saying could we talk about it. Because I don't want to create an additional -- we don't want 75 feet of non-disturbance here.

TRUSTEE SANDERS: That's understandable and reasonable.

MS. MOORE: Okay.

TRUSTEE KRUPSKI: It's theoretical. We'll take a look.

MS. MOORE: It's up to you what you want to do. On behalf of the client I know they have been very consciousness about leaving everything. That is not an issue. And you may be absolutely right, we get this approval and I sit down with them and say do you really want the pool here, should we look to see where we can move it to ape more cleared area.

TRUSTEE DOMINO: I urge you to talk to your clients, consider Trustee Bredemeyer's suggestion about relocating the pool, because you almost have an east/west orientation for the pool, which means when the sun sets, the large trees that are on that property and the neighbor's property will severely shade this pool. And they'll be coming back.

MS. MOORE: They won't be happy, I know, you're right. I'll talk to them. I think that's why they were hoping they might be able to do some tree trimming. But if you are telling me, no, then I have to talk to them and say, well -- and that's the question, which trees can we trim, which ones can't we. And the non-disturbance, that's really the key to this whole thing.

TRUSTEE BREDEMEYER: Okay, thank you. I'll make a motion to table this hearing.

TRUSTEE SANDERS: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

TRUSTEE BREDEMEYER: I'll make a motion to adjourn.

TRUSTEE GOLDSMITH: Second.

TRUSTEE BREDEMEYER: All in favor?

(ALL AYES).

Respectfully submitted by,



John M. Bredemeyer III, President
Board of Trustees