

Minutes

Wednesday, June 14, 2023

5:30 PM

Present Were: Glenn Goldsmith, President
A. Nicholas Krupski, Trustee
Eric Sepenoski, Trustee
Liz Gillooly, Trustee
Elizabeth Peeples, Trustee
Elizabeth Cantrell, Senior Office Assistant
Lori Hulse, Board Counsel

CALL MEETING TO ORDER
PLEDGE OF ALLEGIANCE

TRUSTEE GOLDSMITH: Good evening and welcome to our Wednesday June 14th, 2023 meeting. At this time I would like to call the meeting to order and ask that you please stand for the Pledge of Allegiance. (Pledge of Allegiance is recited).

I'll start off the meeting by announcing the people on the dais. To my left we have Trustee Krupski, Trustee Sepenoski, Trustee Gillooly and Trustee Peeples. To my right we have attorney to the Trustees Lori Hulse and Senior Clerk Typist Elizabeth Cantrell.

With us is Wayne Galante, court stenographer, and from the Conservation Advisory Council we have John Stein.

Agendas for tonight's meeting are out in the hallway and posted on the Town's website.

We do have a number of postponements tonight. The postponements on the agenda are as follows:

Page five, number 1, J.M.O. Environmental Consulting on behalf of **W. HARBOR BUNGALOW, LLC, c/o CRAIG SCHULTZ** requests a Wetland Permit and a Coastal Erosion Permit for the existing 6.5'x53' fixed dock with a 11'x11' fixed portion in an "L" configuration; existing 3.5'x12' ramp and existing 8'x20' floating dock; the 6.5'x53' fixed dock and 11'x11' fixed portion in the "L" configuration to remain; remove existing ramp, float and two piles and install a new 4'x20' ramp with rails and an 8'x18' floating dock situated in an "I"

configuration secured by four piles; and to install four tie-off piles.

Located: 371 Hedge Street, Fishers Island. SCTM# 1000-10-7-18

Page ten, number 17, Jeffrey Patanjo on behalf of

CHARLES & SHERRY SOLON requests a Wetland Permit to construct a 4'x54' fixed catwalk with steps down to a 4' wide by 16' long fixed dock situated in a "T" configuration with the use of Thru-Flow decking for the entire structure.

Located: 4553 Wickham Avenue, Mattituck. SCTM# 1000-107-4-13

Page 11, numbers 18, 19 and 20, as follows:

Number 18, Karen Hoeg, Esq. of Twomey, Latham, Shea, Kelley, Dubin & Quartararo, LLP on behalf of **BRENDAN & SARA OSEAN** requests a Wetland Permit to demolish and remove existing foundation and structures; construct a new two-story, single-family 40.5'x46.9' (1,495 sq.ft.) dwelling with a 42sq.ft. front entry with steps; a 42sq.ft. side entry with steps; a seaward 16.5'x13.3' (+219 sq.ft.) deck over a screened porch with railings; a seaward 14.3'x6' (+86 sq.ft.) deck over porch with railings; a seaward 19'3"x6' (+116 sq.f.t) deck over porch with railings; install a new I/A sanitary system; and install and perpetually maintain a 10' wide non-turf buffer along the landward edge of the bulkhead.

Located: 12632 Main Road, East Marion. SCTM# 1000-31-14-8.2.

Number 19, **AS PER REVISED PLAN & PROJECT DESCRIPTION RECEIVED ON 5/10/2023**. Young & Young on behalf of **STEPHEN & JACQUELINE DUBON** requests a Wetland Permit for the existing 1,118sq.ft. One-story dwelling and for the demolition and removal of certain existing structures (project meets Town Code definition of demolition), within and outside of the existing dwelling to facilitate construction of the proposed additions and alterations consisting of a proposed 45sq.ft. addition to northeast corner, and a 90sq.ft. addition to southeast corner for a 1,195sq.ft. total footprint after additions; construct a 1,195sq.ft. second story addition; a 70sq.ft. second story balcony; replace and expand existing easterly deck with a 320sq.ft. deck with 69sq.ft. of deck stairs to ground; replace and expand existing porch with a 40sq.ft. porch and 20sq.ft. porch stairs to ground; construct a 38' long by 2' wide by 12" to 24" high landscape wall with a 3' wide by 8"-12" high stone step; install one (1) new drywell for roof runoff; abandon two (2) existing cesspools and install a new IA/OWTS system consisting of one (1) 500 gallon treatment unit and 46 linear feet of graveless absorption trenches (i.e. one (1) 24'L x 4'W trench and one (1) 22'L x 4'W trench); and for the existing 84sq.ft. shed.

Located: 5605 Stillwater Avenue, Cutchogue. SCTM# 1000-137-4-3.2.

Number 20 **AS PER REVISED PLANS & PROJECT DESCRIPTION RECEIVED ON 5/5/2023** AMP Architecture on behalf of **STEPHEN & FORTUNE MANDARO REVOCABLE LIVING TRUSTS** requests a Wetland Permit to remove the existing 4'x4' outdoor shower, 6'x5' front entry stoop, 418sq.ft. at grade rear brick patio, existing roof, existing septic system and existing foundation locust posts; for the existing 40'3 1/2"x20'6" (800sq.ft.) one-story dwelling and to lift, relocate and construct additions to the dwelling consisting of an open foundation with

breakaway walls using approximately (15) 10" diameter wood pilings; construct a 6'6"x8' (52sq.ft.) And a 1'3"x9'8" (26sq.ft.) two-story addition; construct a 29'x27' (783sq.ft.) second floor addition; construct a 20'6"x5'7" (114.8sq.ft.) second story seaward balcony (open to above); a 6'6"x5'9" (38.2sq.ft.) front covered porch with a 3'0"x9'1" (27.3sq.ft.) front entry stair; a 3'0"x12'2" (36.5sq.ft.) rear entry stairway; a 4'5"x12'6" (57sq.ft.) mechanical platform with steps; 4'x4'6" (16.5sq.ft.) outdoor shower (open to above); install a new I/A OWTS system on the landward side of the dwelling; install a retaining wall with 36" high railing and rear stair at north/west sides of property approximately 115 linear feet in length; approximately 2,760 cubic feet of earth to be removed for proposed septic system components excavation, all to remain on site for backfill; and 5,055 cubic feet to be used for proposed regrading; install a new 400sq.ft. pervious driveway with curb; install one (1) 8'x4' deep drywell to contain roof runoff; and to install and perpetually maintain a 10' wide vegetated non-turf buffer along the landward edge of wetland vegetation.

Located: 2135 Bay Avenue, East Marion. SCTM# 1000-31-17-4.

And on page 12, number 21, Joan Chambers on behalf of **JENNIFER MAYE** requests a Wetland Permit to remove existing septic system and install a new sanitary system; install an approximately 82 to 83' long, 4' high maximum retaining wall consisting of the west section proposed at 39' to 39'6" long with a 3' return on the western end, and an eastern section proposed at 37' to 37'6" long with a 3' return on the eastern end; an estimated removal of fill to be up to 12 cubic yards with no new fill brought onto the property.

Located: 910 Fleetwood Road, Cutchogue. SCTM# 1000-137-4-22

Under Town Code Chapter 275-8(c) files were officially closed seven days ago. Submission of any paperwork after that date may result in a delay of the processing of the application.

I. NEXT FIELD INSPECTION:

TRUSTEE GOLDSMITH: At this time I'll make a motion to hold our next field inspection Wednesday, July 12, 2023, at 8:00 AM.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

II. NEXT TRUSTEE MEETING:

TRUSTEE GOLDSMITH: I make a motion to hold our next Trustee meeting Wednesday, July 19th, 2023, at 5:30 PM at the Town Hall Main Meeting Hall.

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

III WORK SESSION:

TRUSTEE GOLDSMITH: I make a motion to hold our next work sessions Monday, July 17, 2023, at 5:00 PM at the Town Hall Annex 2nd floor Executive Board Room; and on Wednesday, July 19th, 2023, at 5:00 PM at the Main Town Hall Meeting Hall.

TRUSTEE GILLOOLY: Second.

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

IV. MINUTES:

TRUSTEE GOLDSMITH: Motion to approve the Minutes of April 19, 2023, and May 17, 2023.

TRUSTEE PEEPLES: Second.

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

V. MONTHLY REPORT:

TRUSTEE GOLDSMITH: The Trustees monthly report for May, 2023, a check for \$31,740.11 was forwarded to the Supervisor's Office for the General Fund.

VI. PUBLIC NOTICES:

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

VII. STATE ENVIRONMENTAL QUALITY REVIEWS:

TRUSTEE GOLDSMITH: RESOLVED that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section X Public Hearings Section of the Trustee agenda dated Wednesday, June 14, 2023, are classified as Type II Actions pursuant to SEQRA Rules and Regulations, and are not subject to further review under SEQRA. They are listed as follows:

Caroline Toscano SCTM# 1000-113-4-8
220 Floral Blvd. Corp. SCTM# 1000-35-4-15
D.M. Basilice Revocable Trust SCTM# 1000-53-6-8
Neil Stronski & Patricia Perez SCTM# 1000-111-15-10
Eileen Kasschau SCTM# 1000-118-1-1.2
Geoffroy L. Penny, Sr. SCTM# 1000-111-1-21
2740 Deep Hole Drive, LLC, c/o Stanley Lomangino, Member
SCTM# 1000-123-4-11
Walter R. Miller, Jr. SCTM# 1000-54-1-16
Cynthia Dgheim SCTM# 1000-44-4-4
Robert P. Nelson, Jr. SCTM# 1000-45-6-9.4
Credit Shelter Trust SCTM# 1000-111-1-8.4

William Jimenez SCTM# 1000-109-3-1
Patrick & Ann Marie Browne SCTM# 1000-63-7-38
Donald & Glenna Ryan SCTM# 1000-77-1-3
67 Sound Cheshire LP SCTM# 1000-42-1-1
Christopher & Elizabeth Austin SCTM# 1000-123-4-5.1
Charles & Sherry Solon SCTM# 1000-107-4-13

TRUSTEE GOLDSMITH: That is my motion.
TRUSTEE PEEPLES: Second.
TRUSTEE GOLDSMITH: All in favor?
(ALL AYES).

VIII. RESOLUTIONS - ADMINISTRATIVE PERMITS:

TRUSTEE GOLDSMITH: In order to simplify our meetings, the Trustees regularly group together items that are minor or similar in nature. Accordingly, I'll make a motion to approve as a group numbers four and five, as follows:

Number 4, **JOSEPH P. VERMAELEN & KATHLEEN POWERS-VERMAELEN** request an Administrative Permit to clear a 10' wide path through property for trucks to gain access for purposes of ground testing. Located: 2020 Bay Avenue, Mattituck. SCTM# 1000-144-3-40.1

Number 5, **RALPH GUERCIA & VINCENT D'ALESSANDRO, JR.** request an Administrative Permit to install a two-row split rail wood fence; a 6' high stockade fence and a 4' high black aluminum fence; to remove dead trees; plant native plants; grade disturbed area and bring in topsoil/fill; establish a 5' wide buffer with blue stone.

Located: 1605 Middleton Road, Greenport. SCTM# 1000-41-2-13.2

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

TRUSTEE GOLDSMITH: Number 1, **DANIEL T. & JUSTINE T. SWEENEY** requests an Administrative Permit to install approximately 510 feet of locust post and rail fencing with 1x1 mesh overlay. Fence will be three (3) feet in height on the northeast (waterside) and southwest (front of house) side, 4 feet on all other sides. One 4' wide gate will be installed on the northeast (waterside); three (3) gates will be installed on the southwest side (front of house); - Two (2) 5' and One (1) 3'.

Located: 647 Pine Neck Road, Southold. SCTM# 1000-70-5-31.2

Trustee Peeples conducted a field inspection June 7th. Move the fence approximately eight to ten feet from the wetland vegetation boundary, which is approximately 25 feet from the mean high water. She also went out and measured it, and based on new plans that showed a pipe, and she measured ten-foot landward of the east pipe and 12-foot seaward of the west pipe.

The LWRP found this to be consistent.

So I'll make a motion to approve this application noting that the fence should be ten-foot landward of the east pipe and 12-foot seaward of the west pipe with new plans submitted showing as such.

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number 2, **ROBERTS PREMIER DEVELOPMENT LLC** requests an Administrative Permit to remove debris, downed trees and stumps from wetland area.

Located: 910 Glenn Road, Southold. SCTM# 1000-78-2-27.

Trustee Peeples conducted a field inspection on June 7th, 2023. Maintain intact trees; this is a one-time clean up; this is in a non-disturbance area.

The LWRP found this to be inconsistent because it is work proposed in a non-disturbance area. But based on Trustee Peeples' field inspection, and the Board has been there numerous times, we'll allow this for a one-time clean up only, and to maintain all existing trees.

Therefore I'll make a motion to approve this application as submitted, which will bring it into consistency with the LWRP since it is a one-time only clean up.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number 3, **BARBARA GREENFIELD** requests an Administrative Permit to replace failing (collapsed) block cesspool with an Innovative Alternative OWTS and Geotextile sand filter leaching system.

Located: 550 West Lake Drive, Southold. SCTM# 1000-90-1-24

Trustee Peeples conducted a field inspection June 5th, 2023, noting suggest gutters to leaders to drywells for the house.

The LWRP found this to be consistent.

I'll make a motion to approve this application with the condition of gutters to leaders to drywells for the house.

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

IX. APPLICATIONS FOR EXTENSIONS/TRANSFERS/ADMINISTRATIVE AMENDMENTS:

TRUSTEE GOLDSMITH: Again, in order to simplify the meeting, I'm making a motion to approve as a group Items 1 and 3 through 7. They are listed as follows:

Number 1, Suffolk Environmental Consulting, Inc., on behalf of **STEVEN GUDDAT & TORREY ACRI** requests a One (1) Year Extension to Wetland Permit #9992, as issued on September 15, 2021.

Located: 36581 C.R. 48, Peconic. SCTM# 1000-68-4-23

Number 3, **THOMAS & JENNIFER SMITH** request a Transfer of

Wetland Permit #3784 from Janet Maddams to Thomas & Jennifer Smith, as issued on October 20, 1989.

Located: 3121 Oaklawn Avenue, Southold. SCTM# 1000-70-6-10

Number 4, Brian A. Andrews, PLLC on behalf of **920 CEDAR POINT LLC** requests a Transfer of Wetland Permit #1780, as issued on December 13, 1983, from John P. Reardon and James Conte to 920 Cedar Point LLC and James Conte.

Located: Cedar Point Drive E., (Pleasant Inlet) Southold.

SCTM# 1000-90-3-20

Number 5, **THOMAS & JENNIFER SMITH** request a Transfer of Wetland Permit #2072 from Carol Safir to Thomas & Jennifer Smith, as issued on September 25, 1985, and Amended on June 25, 1997 and Amended again on May 24, 2000; and for an Administrative Amendment to Permit #2072 to add two additional pilings.

Located: 3121 Oaklawn Avenue, Southold. SCTM# 1000-70-6-10

Number 6, Robert I. Brown Architect on behalf of **PAUL R. VARRIALE** requests a Transfer of Wetland Permit #2037 from George M. DeLisle to Paul R. Varriale, as issued on August 28, 1985 and for an Administrative Amendment to Wetland Permit #2037 for the as-built 40"x40" platform and 3'6"x18'3" catwalk, leading to an existing 2'x4"x14' aluminum ramp and 6'x12' floating dock.

Located: 75 Lakeside Drive South, Southold. SCTM# 1000-90-3-10

Number 7, En-Consultants on behalf of **920 CEDAR POINT LLC** requests a Transfer of Wetland Permit #7723 from John Reardon to 920 Cedar Point LLC, as issued on February 22, 2012, and Amended on January 23, 2013, and to Administratively Amend Permit #7723 for the +/-11'x68' as-built deck dimensions; and to install a 36" high steel cable railing on deck surface with gate to the existing +/-4'x11' beach steps (all inside landward edge of existing bulkhead).

Located: 920 Cedar Point Drive East, Southold. SCTM# 1000-90-2-19

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number 2, **OSPREY'S COMPASS LLC** requests a Transfer of Wetland Permit #4027 from Gerald Weir to Osprey's Compass LLC, as issued on May 29, 1992.

Located: 2223 Indian Neck Lane, Peconic. SCTM# 1000-86-5-11.3

Trustee Peeples conducted field inspection June 12th, 2023, noting that the current dock is 82 feet instead of the permitted 60 feet, and the ramp is 14 feet instead of the approved ten feet.

Since what is existing does not match what is on the permit, I'll make a motion to deny this transfer.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number 8, **CHARLES SALICE & CAMILLE PASSARO** request an Administrative Amendment to Permit #10176 to

construct a 7'x18" bench facing the west side of dock and to add water and electric from the house to the floating dock.

Located: 9326 Main Bayview Road, Southold. SCTM# 1000-87-5-25

Trustee Peeples conducted a field inspection June 5th, 2023, notes to stipulate no lighting on the dock.

I'll make a motion to approve the application with the condition there not be any lighting on the dock.

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

X. PUBLIC HEARINGS:

TRUSTEE GOLDSMITH: Under Roman numeral X, Public Hearings, at this time I'll make a motion to go off our regular meeting agenda and enter into the Public Hearings.

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: This is a public hearing in the matter of the following applications for permits under the Wetlands Ordinance of the Town of Southold. I have an affidavit of publication from the Suffolk Times. Pertinent correspondence may be read prior to asking for comments from the public. Please keep your comments organized and brief, five minutes or less, if possible.

AMENDMENTS:

TRUSTEE GOLDSMITH: Under Amendments, Number 1, Michael Kimack on behalf of **CAROLINE TOSCANO** requests an Amendment to Wetland Permit #9799 for the as-built clearing and to revegetate ±4,790sq.ft. of the property and a portion of the non-turf buffer area; remove two trees on east side of property; trim branches on one side of a red cedar tree for walkway access; as-built raised 25.6sq.ft. wood platform for two A/C units; as-built 15.2sq.ft. concrete landing with 16.7sq.ft. steps to ground; as-built 263sq.ft. seaward side deck with 38sq.ft. steps to ground; proposed 255sq.ft. fire pit area; 60sq.ft. of proposed stepping stones; proposed 25 linear feet stone retaining wall under deck; install a 575sq.ft. sand beach area; install 600sq.ft. of pea-gravel under deck to driveway and up to sand beach area; install a 2,125sq.ft. pea-gravel driveway; install 75 linear feet of 4' high fencing with two (2) gates on west side of dwelling; and to install 70sq.ft. pea-gravel path from beach area to walkway stairs.

Located: 610 Jacksons Landing, Mattituck. SCTM# 1000-113-4-8

The Trustees conducted a field inspection June 7th, 2023. Notes read two-to-one native tree replacement for any trees that were removed. And also the use of native vegetation only in the rear yard.

The LWRP found this to be inconsistent. The inconsistency is the as-built clearing is inconsistent. Revegetation should be limited to native deer resistant and drought tolerant vegetation. Trees should be included in the revegetation plan.

The Conservation Advisory Council resolved to support the application.

Is there anyone here wishing to speak regarding this application?

MR. KIMACK: Michael Kimack, on behalf of the applicant.

We don't have any objection to making sure it's all native vegetation within the jurisdiction.

TRUSTEE GOLDSMITH: Okay. And what about two-to-one tree replacement? I forget if it was --

MR. KIMACK: Well, we are only taking out the two trees on that one side. I'm not quite sure where we can put them.

TRUSTEE GOLDSMITH: I believe there were some that were already cut down, and I think you got a violation for that.

MR. KIMACK: There was one. We would agree to transplant two.

TRUSTEE GOLDSMITH: So you are removing two as part of this plan and one is already removed.

MR. KIMACK: Well, there is two on the side of the house, on the other side, basically, but the one I point out to you.

TRUSTEE GOLDSMITH: Yes, the stump right in the middle.

MR. KIMACK: That stump right in the middle, that's the one -- they thought it was not within it. But that's the one we got the violation on. We would agree to two-for-one for that, if that's acceptable to the Board.

TRUSTEE GOLDSMITH: Is there anyone else here who wishes to speak regarding this application?

(No response).

Any questions or comments from the Board?

(No response).

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

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: I make a motion to approve this application with the condition of two-to-one native tree replacement, and also that the use of native vegetation only in the rear yard. And by using native vegetation and two-to-one tree replacement will bring it into consistency with the LWRP. And also subject to new plans showing the tree replacement and native vegetation. That's my motion.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

WETLAND PERMITS:

TRUSTEE KRUPSKI: Under Wetland Permits, number 1, **AS PER REVISED PLANS AND PROJECT DESCRIPTION RECEIVED ON 6/8/23** Michael Kimack

on behalf of **220 FLORAL BLVD. CORP.** requests a Wetland Permit to remove existing bulkhead and install ±121 linear feet of new bulkhead using vinyl sheathing that includes an ±8' return on north end; bulkhead to be replaced in same location as existing except for 23 linear feet of the southerly end to be angled landward to connect to neighbor's bulkhead; new bulkhead to be raised six (6) inches to be level with the southerly bulkhead; and to install and perpetually maintain a ±10' wide non-turf buffer along the landward edge of the new bulkhead filled with sand or stone (±12 cubic yards) to match landward point of adjoining northerly non-turf buffer.

Located: 1825 Gull Pond Lane, Greenport. SCTM# 1000-35-4-15

The LWRP found this to be consistent.

And the Conservation Advisory Council resolved to support this application.

The Trustees most recently visited the site on the 7th of June, noted it was a straightforward replacement of bulkhead. Partially, retaining walls, it was pulled back from the wetland, recommended 45-degree connection to neighboring bulkhead on south edge of property. Spartina to be planted in wetland area where possible on south edge.

It should also be noted that I am in receipt of new plans stamped received by the office June 8th, 2023, that show a slight modification where the south edge of the bulkhead is pulled in to meet the neighbors and not create a pocket of erosion, essentially.

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

MR. KIMACK: Michael Kimack, on behalf of the applicant. Any further questions of me?

TRUSTEE KRUPSKI: I don't believe so.

Is there anyone else that would like to speak regarding this application, or any additional comments from the members of the Board?

(No response).

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

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I'll make a motion to approve this application based off of plans stamped received June 8th, 2023, with the stipulation of new plans depicting a 15-foot non-turf buffer.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE SEPENOSKI: Number 2, Michael Kimack on behalf of **D.M. BASILICE REVOCABLE TRUST** requests a Wetland Permit to remove existing 75' long wood bulkhead and dispose of materials offsite; construct a 75 linear foot long vinyl bulkhead in same location with two (2) 10' returns and elevated 18" above existing top of bulkhead; total of new bulkhead to be 95 linear feet; provide

approximately 22 cubic yards of clean fill to bring grade of new top of bulkhead; install and perpetually maintain a 10' wide non-turf buffer along the landward side of the new bulkhead and plant with native vegetation or substitute sand or stone at owner's discretion. Located: 3255 Bay Shore Road, Greenport. SCTM# 1000-53-6-8

The Trustees recently visited on our monthly field inspection, the 7th of June, 2023. Notes from that inspection read straightforward; match non-turf buffer to north, indicating the left side facing the water, and non-turf buffer will be roughly ten feet.

The LWRP found the project to be consistent with its policies.

And the Conservation Advisory Council resolved to support the application.

The Trustees received a survey stamped April 24, 2023.

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

MR. KIMACK: Michael Kimack on behalf of the applicant. Are there any further questions of me?

TRUSTEE SEPENOSKI: No. Anyone else wish to speak?

(No response).

Members of the Board?

(No response).

Hearing no one further wishing to speak, I make a motion to close the hearing.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE SEPENOSKI: I make a motion to approve the application striking from the written description the "at owner's discretion" and the inclusion of a non-turf buffer matching the property to the north, which is roughly ten feet in.

That is my motion.

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: Number 3, Michael Kimack on behalf of **NEIL STRONSKI & PATRICIA PEREZ** requests a Wetland Permit to remove a 14" diameter, 6" diameter, and two (2) 12" diameter trees at top of bluff; construct a 100 linear foot long upper retaining wall with a 6' return along northerly property line; backfill with approximately 30 cubic yards of fill from off-site; install and perpetually maintain a 10' wide non-turf buffer along the landward edge of the relocated top of bluff and plant native vegetation or substitute stone/sand at owner's discretion; construct a 93 linear foot long lower retaining wall with a 12' return along northerly property line at 45 degree angle (105 l.f. total); backfill with approximately 200 cubic yards of fill (±110 cu.yds from off-site); excavate 12" below top of bulkhead to retaining wall (±90 cubic yards) and deposit landward of retaining wall; cover area with one layer of jute matting O/E and plant American beach grass at 1' on-

center O/E ($\pm 3,600$ sq.ft.); place heavy stone 6"-8" as scour pad (2.2 tons) between proposed lower retaining wall and existing bulkhead with filter fabric underlayment ($\pm 1,065$ sq.ft.); remove existing bluff stairs for construction and replace with a 4'x8' top landing to a 4'x18' staircase to a 4'x8' upper middle landing to a 4'x14' staircase to a lower middle 4'x4.5' landing to a 4'x2.6' staircase to a 4'x11.5' bottom landing to a 4'x8.5' stairs to beach.

Located: 7025 Nassau Point Road, Cutchogue. SCTM# 1000-111-15-10

The Trustees most recently visited the site on June 7th, 2023, noting concerns of destabilizing the bluff and surrounding area by vibrating and shaking at top of bluff. Lower wall does not seem as problematic.

The LWRP reviewed this application and found it to be consistent.

And the Conservation Advisory Council reviewed this application and resolved to support it with a ten to 15-foot non-turf buffer planted with native vegetation, and no tree removal.

As noted in the field, the Trustees were concerned about the upper retaining wall.

Is there anyone here wishing to speak regarding this application?

MR. KIMACK: Michael Kimack, on behalf of the applicant. We did visit it and there was concern about using the vibration in order to set the sheathing for the upper one. Apparently we've had some bad experiences in the past. So what we did, basically, in talking to Ian Crowley who is going to be putting it in, we decided it can be done by hand digging and augur sheets, and plans have been resubmitted to indicate that, as a means with which to put the sheathing in, which will not cause any problems.

As far as the trees are concerned, on the upper one, the Locust trees basically are right in line, I think there is three of them, right in line with the new bulkhead on the top. Or the retaining wall. And they are already beginning to lean. There is really no way with which to preserve them.

TRUSTEE GILLOOLY: Thank you. I think overall the concern was more that the upper retaining wall would actually have a destabilizing effect on the bluff. Would you like to speak to that?

MR. KIMACK: Okay, your concern is that somehow putting in the upper retaining wall would destabilize the bluff which is already becoming destabilized. So rather than -- so the new retaining wall would go in and it would basically be sent down far enough. They normally extend above ground anywhere from two to four feet and inground about six or seven feet, hand dug, which is going to lock in that upper wall and cause it not to have any more erosion or destabilization.

I'm not quite sure exactly how you might have come to a concern that it would be a destabilization by putting in a retaining wall when it's exactly the opposite.

TRUSTEE GILLOOLY: Thank you. Is there anyone else here wishing to speak regarding this application or any comments from the Board?

TRUSTEE KRUPSKI: I just think, for the record, I understand your point of removing trees as best practices from a steep bluff. I

think they should be, probably be replaced. It's a large enough property certainly that they could be replaced on the landward side of the house as a one-to-one, probably.

MR. KIMACK: I would have no objection to that.

TRUSTEE KRUPSKI: And then, you know, looking at the picture of this house, there is certainly a pretty good amount of stability at this time. I understand it's a steep spot. In a perfect world the house would be located landward enough, and if the applicant wanted to put in a retaining wall, you know, 20 feet back from the top of the bluff and sort of let the bluff naturalize and find a comfortable slope that it would stay at and revegetate at, that's what should happen here, but obviously we are working with what we have. So we'll keep that in mind for the future.

TRUSTEE GILLOOLY: Any other questions or comments?

(No response).

Hearing no none, I'll make a motion to close this hearing.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: I make a motion to approve the portion of this application relating to the lower retaining wall and boulders. To do that, I need to strike the following language from the project description. Quote: Remove a 14" diameter, 6" diameter and two 12" diameter trees at top of bluff; construct an upper retaining wall with a six-foot return along northerly property line; backfill with approximately 30 cubic-yards of fill from off-site. End quote.

Additionally, I move to strike the proposed 10-foot non-turf buffer, and instead require a 15-foot native vegetated non-turf, the 4-foot access path and temporary irrigation to be removed within two years. All trees removed that must be removed should be replaced one-to-one with native hardwood. This permit will be contingent upon receipt of new plans depicting the described changes. So moved.

MS. HULSE: I'm just going to ask, do you consent to that amendment to the description, the job description?

MR. KIMACK: Do I have to?

(Board members discussing amongst themselves).

TRUSTEE GILLOOLY: I rescind my motion.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GILLOOLY: I make a motion to deny the portion of the project that says quote "remove a 14-inch diameter, 6-inch diameter and two 12" diameter trees at top of bluff; construct an upper retaining wall with a 6' return along northerly property line; backfill with approximately 30 cubic yards of fill from off-site." End quote.

And I make a motion to approve the remainder of the description with a one-to-one native hardwood tree replacement and a 15' native vegetated non-turf buffer with 4' access path and temporary irrigation to be removed within two years.

This permit will be contingent upon receipt of new plans depicting the described changes. So moved.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE PEEPLES: Number 4, Michael Kimack on behalf of **EILEEN KASSCHAU** requests a Wetland Permit for the following as-built structures: As-built 2.5'x71' (177.5sq.ft.) Slate stepping stone walkway with 35 slate stones; as-built 4'x4' (16sq.ft.) slate staircase with three (3) treads and four (4) risers; as-built 28 linear foot by 1' (28sq.ft.) Long rock wall adjacent to slate staircase; as-built 1.5'x19' (28.5sq.ft.) slate walkway; as-built 2.75x3.5 (9.63sq.ft.) upper wood staircase; as-built 3.25'x10.0' (32.5sq.ft.) upper wood walkway; as-built 3.3'x3.2' (10.5sq.ft.) upper wood staircase; as-built 4.4'x10.0' (44sq.ft.) upper wood landing; as-built 3.3'x15' (49.5sq.ft.) mid wood staircase; as-built 7'x7.3' (51.1sq.ft.) and 3.0'x3.25' (9.75sq.ft.) lower wood landings; as-built 2.9'x11.7' (33.93sq.ft.) lower wood staircase, for a total of 241sq.ft. of stairs and landings; as-built raised wood deck and shed, remove 7.4'x8' (59.2sq.ft.) of existing building and 3.2'x7' (22.4sq.ft.) of adjacent existing deck, remove approximately 3'x8' (24sq.ft.) of existing deck; proposed re-framed shed will be 7'x8' (56sq.ft.); remaining existing deck will be no more than 6' wide with 99sq.ft. Of deck to remain, except for small section between staircase and retaining wall; as-built 4.33'x5.25' (22.73sq.ft.) staircase to lower deck; as-built 10.4'x57' (592.8sq.ft.) lower wood deck at bulkhead; remove 10.4'x48.5' (504.4sq.ft.) of lower wood deck with 10.4'x8.5' (88.4sq.ft.) of lower wood deck to remain; as-built cantilevered 3.6'x4.5' platform off bulkhead with 3.3'x7.4' steps to beach; for the second set of as-built 164.3sq.ft. Bluff stairs: 3.3'x9.6' (31.68sq.ft.) upper landing to 3.3'x6.5' (21.45sq.ft.) upper staircase to 3.3'x3.5' mid landing to 3.3'x10.7' mid staircase to 3.3'x3.9' (12.87sq.ft.) lower landing to 3.3'x11.5' (37.95sq.ft.) lower staircase to 3.3'x4.1' (13.5sq.ft.) lower deck at bulkhead with steps to beach; existing 20.5'x38.2' in-ground pool with as-built 1,041sq.ft. Slate surround patio; as-built 91 linear feet of slate retaining wall on northerly sides; as-built slate staircase with five (5) treads and six (6) risers; pool equipment area below grade south of patio; as-built 91 linear foot long concrete retaining wall along westerly and northerly sides of pool; as-built 95 linear feet of wood retaining wall along southerly and easterly sides of pool; 113 linear feet of metal vertical ballister pool fence along westerly and northerly retaining walls; 141 linear feet of 4' high chain link pool fence along southerly, easterly and northerly sides of pool; total pool fencing is 254 linear feet; open 4'x5' outdoor shower wood base; for the existing 3,210sq.ft. two-story dwelling connected to drywells with a 8.3'x38' seaward side covered porch connected to lower grade by two 13'x3.8' stairways; 6'x10.2' open covered porch and 8'x8' side entry open covered porch; seaward 10.6'x8' open deck and 7.9'x11' stairs from first floor level down to basement level; 588sq.ft. stone terrace at grade; existing "L" shaped 64' long masonry retaining wall supporting the 1,020sq.ft. Parking area paved with gravel on asphalt and drained to drywells; a 6'x46' stone walkway; a 1,459sq.ft. Gravel on asphalt

driveway drained to drywells leads down to garage supported on one side by a 35' long masonry retaining wall; and HVAC condenser units enclosed by a low fence; and to construct a 13.1'x24.1' addition over an existing basement level garage. Located 5800 Vanston Road, Cutchogue. SCTM# 1000-118-1-1.2

The Trustees most recently visited the site on June 7th and made the following notes: Straightforward as built, to include removal of part of the shed and deck along bay to bring into compliance with prior permit for steps.

The LWRP found this application to be inconsistent and noted due to the as-built and then 6.3, protect and restore tidal and freshwater wetlands: A. Comply with statutory and regulatory requirements of the Southold Town Board of Trustees laws and regulations for all Andros patent and other lands under their jurisdiction.

Number 1, comply with Trustee regulations and recommendations as set forth in Trustee permit conditions.

Then with the question what is the natural feature. In 1999 a permit 4958 was issued for a shed, 16'x20' stairs and 3'x7' steps. The shed is to be used as a shed and revegetated.

Number 1, the wood dock does not comply with the permit and should be removed or modified to meet past permit condition. Require revegetation of the area if the deck is removed.

Number 2, stairs do not comply with the permit and should be modified to meet conditions. Require revegetation of the area if the stair is removed. A large amount of as-built ignores the permit and the quote "in-place, in-kind" quote notation is that the standard for this area due to the many decks on the bulkhead. The area is a FEMA velocity hazard and structures should not be expanded, especially without permit. In 2001 plans were submitted to the Board that depicted a deck and shed that met the permit conditions. And there is a portion of a plan noted here as well.

The Conservation Advisory Council resolved to not support the application as the as-built and new construction existing violations of Chapter 275 Wetlands in addition to the dwelling as submitted.

Is there anyone here who wishes to speak in regard to this application?

MR. KIMACK: Michael Kimack, on behalf of the applicant. I think basically the, um, the construction of the, the issuance of the permit of that upper deck system with the shed, primarily, which indicated a 6x20 deck with a 7x8 shed on it had been over-built and understood, I think he built an 8x27 and a 12-something by nine. Something like that. And the proposal is to utilize the same structure, basically the same, without tearing anything out over there, but reconfiguring it to come back to the 6x20 and 7x8 shed, essentially. The fill site has and continues to be well vegetated all the way through. There is really no signs of any type of erosion as such on any part of it going down.

It does have a second staircase, which we discussed on the site, against the, if I correctly, against the northerly property

line, which is used for an easement for the other people across the road.

Part of the request certainly is a second floor on top of the garage. That is part of the application. Part of the request is for the pool, for the surround for the pool, the fencing around there. The walkway, the stone walkway alongside that pool, and the stairs going down. It's an old piece of property and the house was constructed by 1920. It's been there some time.

TRUSTEE PEEPLES: Okay, thank you. Is there anyone else here who wishes to speak?

(No response).

I would note that the pool is very close to the top of bluff. I realize that at the time the permit was issued it was likely the dimensions were taken from the bulkhead. So that is something just to keep in mind. There is quite a bit of structure.

MR. KIMACK: It has not as of yet caused any difficulty with the bluff itself and has been there for some time.

TRUSTEE PEEPLES: And as you pointed out, there is a quite-vegetated bluff there.

MR. KIMACK: It's one of the better-vegetated slopes that I've seen in the sense without any kind of erosion points along any place. As a matter of fact it's even difficult to walk it to try to get around it. You can almost see from the photo the conformity of the green, you know, from the top of the bluff.

TRUSTEE SEPENOSKI: I believe at the time this was permitted, Trustee jurisdiction was at 75-foot from wetland line from top of bluff, and now we are, the code is 100. So at the time it was permitted but the different dimensions for setbacks.

Mr. Kimack, can you speak to the portion of the application that's above the garage?

MR. KIMACK: Yes, they are adding, I think the plans are in the file and also the description. They are adding a recreation room that is connected back to the house, and they are staying within the perimeter of the garage on the south. And normally, that doesn't normally trigger a major concern for the Trustees as long as we are not changing the overall. But it's the second floor and adding on it to it, it became part of the application.

TRUSTEE SEPENOSKI: Okay.

TRUSTEE PEEPLES: Mr. Kimack, thank you, for your patience. So I just want to confirm for the record that the shed will be dialed back to its originally-permitted size, correct?

MR. KIMACK: Yes. If you look at the drawing that I did, primarily, you'll see -- may I approach?

TRUSTEE PEEPLES: Yes, I have one dated March 22nd.

MR. KIMACK: That's the one.

TRUSTEE PEEPLES: Yes, please.

TRUSTEE GILLOOLY: It's probably better if you speak into the microphone.

MR. KIMACK: Speak to the hand, according to Arnold.

You'll see the dotted area, the dashed area that is here. That is as it exists presently. So.

TRUSTEE PEEPLES: Yes. To be removed

MR. KIMACK: It was 27-foot all the way here. Your permit was 20-foot to here. So we are moving this and doing the 7x8 here, and then in order to keep with the six-foot wide, we are stripping this back and putting a railing over here so that this does not represent an extension of the deck. It's the only way I could reconfigure it without having to tear everything out and causing damage to the retaining wall.

TRUSTEE PEEPLES: Okay, thank you, for explaining.

Is there anyone here who wishes to speak regarding this application? (No response).

Or any other questions or comments from the Board?

(No response).

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

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE PEEPLES: I make a motion to approve this application with the plans stamped and dated March 22nd, 2022, and by addressing the concerns of the LWRP, by reducing the size of the shed and the dock, thereby bringing it into consistency with the LWRP.

Let me clarify that. March 22nd of 2023 is the date on the plan. I mixed up my numbers.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Number 5, **AS PER REVISED PLAN & PROJECT DESCRIPTION RECEIVED ON 5/25/2023** Michael Kimack on behalf of **GEOFFROY L. PENNY, SR.** requests a Wetland Permit to remove existing staircase, fixed walkway, wood ramp, floating dock and pilings; construct a proposed landward 4'x6' (24sq.ft.) fixed ramp to a 4'x32' (128sq.ft.) fixed dock using Thru-Flow decking throughout; install a 3'x14' (42sq.ft.) aluminum ramp off seaward end to a proposed 6'x20' (120sq.ft.) floating dock situated in an "L" configuration; install five (5) sets of 6" diameter pressure treated pilings at 8' on-center for the fixed dock, and two (2) 8" diameter pressure treated pilings to anchor floating dock.

Located: 1010 Fisherman's Beach Road, Cutchogue. SCTM# 1000-111-1-21

The Trustees conducted a field inspection June 7th, 2023, noting that the project is straightforward with the new plans showing conforming structures received 5/25/2023.

The LWRP found this project to be consistent.

The Conservation Advisory Council resolved to support this application.

Is there anyone here wishing to speak regarding this application?

MR. KIMACK: Michael Kimack, on behalf of the applicant. I think it's been well thought-through with the visit. If you have any further questions of me.

TRUSTEE GOLDSMITH: All thru-flow decking?

MR. KIMACK: All thru-flow decking. If you look at the drawing you'll see it, it's in the lower right-hand topo layout. I always put my thru-flow through there with the dimensions.

TRUSTEE GOLDSMITH: Okay, thank you. Is there anyone else here who wishes to speak regarding this application?

(No response).

Any questions or comments from the Board?

(Negative response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: I make a motion to approve this application with the plans stamped received May 25th, 2023.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

MR. KIMACK: Thank you, very much. Have a good evening.

TRUSTEE KRUPSKI: Number 6, **AS PER REVISED PLANS & PROJECT**

DESCRIPTION SUBMITTED ON 6/9/2/23 En-Consultants on behalf of **2740 DEEP HOLE DRIVE, LLC, c/o STANLEY LOMANGINO, MEMBER** requests a Wetland Permit to construct an approximately 4,345sq.ft. partially elevated masonry pool patio (use approximately 102 cubic yards of on-site excavation material to achieve proposed patio elevation), upon which will be installed a 4' high pool enclosure fence, a 10' wide pergola, an outdoor kitchen area, and a 3'x3' foot shower (to be connected to a trench drain installed around patio, which is to be connected to a proposed storm-water drainage system located more than 100' from wetlands), all located at least 100' from wetlands; and install a 3'x101' stone walkway consisting of 3'x2' pavers set in sand to existing dock; and proposed more than 100' from wetlands a 16'x34' swimming pool; a 14.5'x24' pool house with outdoor shower; a 4'x4' fire pit; three existing pine trees located in the proposed construction area are to be selectively removed and replanted elsewhere on property more than 100 feet from wetlands; and to establish and perpetually maintain a 75' wide Non-Disturbance buffer area along the landward edge of wetlands with a 4' wide by ±101' long natural access through the Non-Disturbance buffer area to dock. Located: 2740 Deep Hole Drive, Mattituck. SCTM# 1000-123-4-11

The LWRP coordinator found this to be consistent, recommended minimizing irrigation and fertilization with the creation of wide vegetated buffers.

The Conservation Advisory Council supports the application but recommends Black Pines and Northern Bayberry located seaward of the construction area are retained.

The Trustees most recently visited the property on the 7th of June and noted there should be a 75-foot non-disturbance buffer, relocate mature pine trees, relocate any trees that will be disturbed or replaced on a two-to-one basis.

And I am in receipt of new plans stamped received by the

office June 9th, 2023, that do show a 75-foot non-disturbance buffer.

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

MR. HERRMANN: Yes. Good evening. Rob Herrmann, En-Consultants, on behalf of Mr. Lomangino.

As Nick just mentioned, we've had some discussions about the 75-foot non-disturbance buffer, and also the relocation and retention of those two or three Black Pines elsewhere on the property, as they are located right either at or within the construction site. So that is responsive to the recommendation, I think, it was either also the LWRP or Conservation Advisory Council.

And I think, as I had mentioned to you, shown on the revised plans what was previously proposed as a masonry walk to the dock which is now a natural pathway, including a path through that 75-foot buffer.

Other than that, the proposal meets the 100-foot setback and is a pretty straightforward application. These plans should now be consistent with those recommendations and our conversation at the site.

TRUSTEE KRUPSKI: Thank you. Is there anyone else that wishes to speak regarding this application?

(No response).

Any additional comments from the members of the Board?

(Negative response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I make a motion to approve this application based on the new plans stamped received in the office June 9th, 2023, stipulating the saving of the Black Pines by relocating them on the property.

TRUSTEE GOLDSMITH: Second. All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: Number 7, En-Consultants on behalf of **WALTER R. MILLER, JR.** requests a Wetland Permit to remove existing steps and wood railing along cleared walking path, and construct a 4' by ±64' long timber bluff stairway consisting of 4'x4' entry steps and a 4'x8' entry landing, 4'x16' steps, 4'x4' landing, 4'x18' steps, 4'x4' landing, and 4'x10' steps; and restore existing pathway and areas of existing vegetation disturbed or lost during construction with shade-tolerant native vegetation.

Located: 2398 Hyatt Road, Southold. SCTM# 1000-54-1-16

The Trustees most recently visited this site on June 7th, 2023, noting straightforward/revegetate.

The LWRP reviewed this application and found it to be consistent, noting to minimize irrigation and fertilization with the creation of wide vegetated buffers.

And the Conservation Advisory Council supports the application with retractable steps at the base of the stairway and parallel to the shoreline.

I'm also in receipt of a letter from a neighbor who was concerned about how the heavy equipment will be transported to the site.

Is there anyone here wishing to speak regarding this application?

MR. HERRMANN: Yes. Rob Herrmann of En-Consultants, on behalf of the applicant.

The last comment is easy to respond to. There really is no heavy equipment for the site. As I think we had mentioned during the site inspection, there is a right-of-way that does not seem to be really a travelable right-of-way except maybe by foot. So care was taken actually to design the stairway so that it ends landward of that right-of-way, so that that right-of-way is not intruded upon or interfered with in any way, but also would not be used at all for delivery of materials.

For these kind of bluff stairways, particularly here, all the work is done on the bluff by hand; saws, drills, sledge hammer, posthole diggers. There is no heavy equipment on the bluff at all for this type of project.

The plans do note access coming from the top of the bluff or from the end of the beach but there would be nothing really that would come through the beach. So that's really easy to respond to.

And with respect to revegetation that is included in the plans, the disturbance area around the proposed stairway would be revegetated as would the existing sort of switchback walking path that has that wood railing. So that area of the bluff which now is basically travelled and barren of vegetation would be revegetated.

So you really get sort of a net increase in bluff vegetation as a result of creating this one single point of structural access.

TRUSTEE GILLOOLY: Thank you, for that. Would the applicant be agreeable to temporary irrigation to revegetate that area of the bluff?

MR. HERRMANN: I don't see why not. I mean, it would be native vegetation that would be used. I don't think you would want to set up any irrigation the bluff face itself. But it should be, you know, it would be obviously in their interest to make sure that the plant materials that they purchase survive. So I don't know how you want to address that, maybe just put a survivability condition or something on there. But, you know, certainly they would not normally want us to, they would not want us to set up irrigation on, you know, on the bluff face itself.

TRUSTEE GILLOOLY: Agreed. That's what we don't want to see, and believe it or not, we see it a lot.

MR. HERRMANN: Usually it leads to more erosion than anything else.

TRUSTEE GILLOOLY: Absolutely. And that's the problem with it.

All right, is there anyone else here wishing to speak regarding this application?

MS. REEVES: I'm Jamie Reeves and I live at 415 Hilltop Path in Southold, and I also own the property at 480 Sunset Path in Southold. and both of these properties are contiguous to Mr. Miller's property on Hyatt Road. And I'm also a member of Sunset Knolls Homeowners Association and that association, and its members own property contiguous to Miller's property.

So on Saturday I got three registered letters because I manage the association's bank account and property taxes, so I need to share this information with them, and I did that.

My husband and I and the members of the Sunset Knolls association had that one concern about the property and how they were going to get the equipment there, which has already been answered, and I appreciate that.

But we would like point out to the Trustees two interesting observations about the proposed site plan. One, the proposed site plan on the property, west side of Miller's property is designated as the property of Dan Denton (sic). This beach property is deeded to the members of Sunset Knolls Association and Dan Denton is not a member of that association and doesn't own any part of that property.

And two, the site plan as proposed shows the 20-foot right-of-way at the back of Mr. Miller's property, from Hyatt Road across his property, and seems to show pictorially that this right-of-way hooks up with the 20-foot right-of-way at Sunset Knolls property.

Even the tax map shows a private road on Sunset Knolls ending at Mr. Miller property. Mr. Miller has no existing right of property -- no existing right-of-way through Sunset Knolls property. We hope that the Trustees will take note of our concerns about the accuracies of the proposed site plan. Thank you.

TRUSTEE GOLDSMITH: Thank you.

TRUSTEE GILLOOLY: So what was just brought up, would your client be able to legally gain access to perform this project without using any portion of that right-of-way?

MR. HERRMANN: That's correct. That's why I mentioned before, the project was designed specifically to avoid any intrusion upon or interference with or use of the right-of-way that is located, that runs basically across Mr. Miller's property, east of the Sound. And that, again, I believe that the right-of-way that the speaker is referring to, I'm bringing up the survey rather than site plan, is this right-of-way here. And that is why when Ms. Miller first came to us, we had a typographical survey done by the surveyor and located the right-of-way, because my initial concern was what if the toe of the bluff, you know, ran out here, for example, the stairway would have had to traverse the right-of-way, which would block use of it. I mean, again, there doesn't seem to be any in fact use, but they could prevent the right of use. But if you look at the site plan, the stairway actually ends to the east of the right-of-way.

So Mr. Miller can come down the stairs and walk across the right-of-way and on through his own property, the Sound, same as he does now. But there won't be any -- he won't be using this right-of-

way to bring in materials which was an initially mentioned concern, and there is no physical interference with the right-of-way. The entire project is located on Mr. Miller's property and only Mr. Miller's property. And that's shown on the site plan. And the access to his property comes up here from Hyatt Road.

MS. HULSE: So how does the applicant access the staircase?

MR. HERRMANN: From his backyard.

MS. HULSE: Does he have to walk around?

MR. HERRMANN: No. This is his house. This is the top of the bluff. That's the stairway which ends here. And this is the right-of-way here. So the stairway is located completely landward of this right-of-way, and was designed specifically to avoid this right-of-way, just for this very issue. If he had to build a stairway across the right-of-way, I don't think we would be permitted to build it.

TRUSTEE KRUPSKI: Without permission.

MR. HERRMANN: Without permission. So the idea was to avoid that conflict all together. It was a concern we anticipated from the outset, fortunately.

TRUSTEE GILLOOLY: Anyone else here wishing to speak regarding this application?

(No response).

Any questions or comments from the Board?

(Negative response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: I make a motion it to approve this application with the plans stamped May 5th, 2023, with the stipulation of temporary irrigation to establish the vegetated non-turf buffer to be removed within two years. If necessary. That is my motion.

MR. HERRMANN: Also there is no buffer. It's the revegetation of the bluff face.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

MR. HERRMANN: Thank you.

TRUSTEE PEEPLES: Number 8, **AS PER REVISED SURVEY RECEIVED ON 6/12/2023** Timothy Cloughen on behalf of **CYNTHIA DGHEIM** requests a Wetland Permit for the existing two-story dwelling with a 918sq.ft. footprint and 97sq.ft. concrete covered porch; as-built ±3' to 4' wide concrete slab/walk surrounding the perimeter of the dwelling; as-built vegetation and tree clearing on the property; and to install a split-rail fence landward of the area of freshwater wetlands on the property; and to establish and perpetually maintain an approximately 11,194.35 square foot area seaward of the split-rail fencing to be a Non-Disturbance Buffer area.

Located: 58670 County Road 48, Greenport. SCTM# 1000-44-4-4

The Trustees recently visited the site on June 7th and noted that the fence location was flagged.

The LWRP found this application to be inconsistent, noting that there are as-builts.

The Conservation Advisory Council resolved to support the application.

And since visiting the site we are in receipt of new plans stamped and dated June 12th, 2023, that do note the location for the proposed split-rail fence as per our discussion onsite.

Is there anyone here who wishes to speak in regard to this application?

Please state your name for the record.

MR. DETRAKIS: Joseph DeTrakis (sic), owner of the property. I don't have anything to say, but I welcome any questions.

TRUSTEE PEEPLES: Thank you, very much. I do have one question here. We appreciate the updated plans we were able to review prior to the hearing this evening. One question. While there are dimensions from the existing house to the flagged wetland line, there is not a dimension to the fence. Would it be possible to amend this drawing so that we have dimensions to the fence from the house?

MR. DETRAKIS: Sure, I'm sure the surveyor can provide that.

TRUSTEE PEEPLES: Absolutely. That would be helpful just so there is some sort of reference point because right now it looks like what we spoke about the field, it would be helpful to have that dimension.

MR. DETRAKIS: Okay, no problem.

TRUSTEE PEEPLES: Okay, great. Anyone else here who wishes to speak or any other questions or comments from the Board?

(No response).

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

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE PEEPLES: I make a motion to approve this application subject to new plans that show the dimension from the existing house structure to the proposed fence. That is my motion.

MEMBER GILLOOLY: Second.

MR. DETRAKIS: I'm sorry, so the house structure, not the property line?

TRUSTEE PEEPLES: That is correct. So from on this drawing there is a --

TRUSTEE KRUPSKI: Hang on. There is a motion made, so we really can't -- She made a motion. We really can't answer questions at this time. We should probably --

MR. DETRAKIS: That's fine.

TRUSTEE KRUPSKI: After the motion, she can answer that question.

TRUSTEE PEEPLES: Okay. And by granting a permit thereby bringing it into consistency with the LWRP. That is my motion.

TRUSTEE GILLOOLY: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE PEEPLES: So to answer your question. You have a dimensions drawn from the house structure to the wetland line. So that is fine to keep. But if you can also add the dimension from the structure, the house, to the fence, so that we have -- otherwise we have no way to locate where that fence is. And maybe a couple of lines would be helpful.

MR. DETRAKIS: Sure.

MEMBER PEEPLES: Thank you, very much.

TRUSTEE GOLDSMITH: Number 9, Suffolk Environmental Consulting, Inc. on behalf of **ROBERT P. NELSON, JR.** requests a Wetland Permit for a Ten (10) Year Maintenance Permit to dredge the existing bulkheaded basin to -4.0' mean low water (approximately 550 cubic yards of bottomland), while maintaining 10' separation from existing bulkheads; and to de-water/deposit the ±550 cubic yards of dredge spoil across a portion of the neighboring lot, seaward of the existing vegetation and landward of the spring high water mark.

Located: 1420 Ninth Street, Greenport. SCTM#1000-45-6-9.4

The Trustees conducted a field inspection June 7th, 2023, noting that it is a straightforward application.

The LWRP found it to be consistent. The dredging is subject to seasonal controls that increase flushing of the marine wetlands, will help with the ecology.

The Conservation Advisory Council resolved to support the application.

Is there anyone here wishing to speak regarding this application?

MR. ANDERSON: Robert Anderson, on behalf of the applicant, here to answer any questions the Board may have.

TRUSTEE GOLDSMITH: Is there anyone else here wishing to speak regarding this application?

MR. HARLOW: My name is George Harlow, I live at 1220 Ninth Street in Greenport.

I'm just curious what happens to the spoils? Because particularly you bring up a lot of organic materials, sometimes toxic materials, and it's going to be essentially put adjacent to the beach. And it's Pipes Cove.

TRUSTEE GOLDSMITH: To address that, the DEC usually requires or they do require soil samples to make sure there is no heavy metals or anything toxic in that material. It does have an approved spoil site that will be located to the west of that channel and it's shown on the plans submitted April 17th, 2023.

MR. HARLOW: Does that get coated with anything, because the fines are going to be up near the surface. When it gets deposited, you mix up all of the spoil that essentially the fine grain clays and things that are in that channel, and they are up at the surface, so essentially fine grain material and not sand.

TRUSTEE GOLDSMITH: Again, DEC controls the sediment sample, they do a TOC. So if it is silt or something like that, you are not

allowed to necessarily deposit it on the beach. If it's clean sand of a similar grain size, which this appears to be, then you are allowed to put it back on the beach.

TRUSTEE KRUPSKI: Right. to clarify that point, it's mandated here you are only allowed to dredge sand, and there is always going to be some incidentals that come up with it, but the idea is they would be dispersed amongst the sand and not, you know, running off into say the wetlands in this case behind the beach.

MR. ANDERSON: And if I may add to that, we are looking at a boat basin that has been historically dredged. On their last approval with the DEC, from what I can tell there is 1,650 cubic yards to 2,000 cubic yards just laid out 800 linear feet along the adjacent property there, and same amount we are proposing. So it stands to reason if that gets filled there with sand deposits and littoral drifts, and we are not proposing any dredge below what was proposed back then and approved back then.

TRUSTEE GOLDSMITH: And you submitted to the DEC?

MR. ANDERSON: Yes.

TRUSTEE GOLDSMITH: Anyone else here wishing to speak regarding this application?

MR. PERROS: Hi, my name is Alexander Perros, Mr. Nelson's neighbor, 1400 Silvermere Road. I just wanted to voice my support for his application and what he's doing. We've worked closely together and there's no better steward of the wetlands, and we co-own probably the majority of that 18-acre salt marsh. So I'm in support of this, and I know a lot of the dredging material will end up on our property and we are totally in support of it.

TRUSTEE GOLDSMITH: Thank you. Is there anyone else here wishing to speak regarding this application?

(No response).

Any other questions or comments from the Board?

(Negative response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: I make a motion to approve this application as submitted.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

MR. ANDERSON: Thank you, for your time. Have a great evening.

TRUSTEE KRUPSKI: Number 10, Tom Samuels on behalf of **CREDIT SHELTER TRUST** requests a Wetland Permit to remove portions of and substantially reconstruct existing deteriorated bulkhead; reconstruct 93'6" linear feet of bulkheading in-place using Shore-Guard SG vinyl sheathing, 6'x6" treated wood whalers/stringers at two levels, 8" diameter by 6' long laid log dead-men reinforced with (2 each) 8"x6' backing piles, new 3/4" galvanized steel tie rods with connecting hardware, and the 20

existing 8" diameter by 20' treated wood pilings at ±6' on-center to remain; replace 518 sq.ft. of decking with new 2"x6"x5' long and 6' long Douglas fir decking using galvanized steel connectors; the existing 5'1"x26'3" section of fixed dock and decking off of bulkhead to remain; dredge approximately 720 sq.ft. of basin area to a depth of 3' below mean low water and add dredged spoil as backfill for reconstructed bulkhead; filling limited to replacement of eroded backfill behind existing bulkhead, using dredged material and/or clean sand; establish and perpetually maintain an approximately 265 sq.ft. non-turf buffer area topped with ¾"-1" beach stones between the west property line and decking, and a 10' wide, approximately 200sq.ft. non-turf buffer area topped with ¾"-1" beach stones landward of decking.

Located: 155 Fisherman's Beach Road, Cutchogue. SCTM# 1000-111-1-8.4

The LWRP coordinator found this to be consistent.

The Conservation Advisory Council resolved to support the application but had concerns over the fence posts and the fence on the east side of the property.

The Trustees most recently visited the property on the 7th of June and noted it was a straightforward application.

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

MR. SAMUELS: Tom Samuels on behalf of my family, to answer any questions.

TRUSTEE KRUPSKI: Anyone else that wishes to speak regarding this application?

MR. SKOUZA: Robert Skouza, 60 Fishermans Beach Road. We're neighbors. Our property abuts the boat slip in question, and we are here to support the issuance of that petition.

TRUSTEE KRUPSKI: Thank you.

TRUSTEE GOLDSMITH: Thank you.

TRUSTEE KRUPSKI: Is there anyone else here that wishes to speak regarding this application or any comments from the Board?

(No response).

Are you going to come back and do this full-time?

MR. SAMUELS: No, this is it for me. I would like to introduce my daughter Kate, who is an architect, and she may be before you some day.

TRUSTEE KRUPSKI: Thank you. Hearing no further comment, I make a motion to close the hearing.

TRUSTEE PEEPLES: Second

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I make a motion to approve this application as submitted.

TRUSTEE GOLDSMITH: Second. All in favor?

(ALL AYES).

TRUSTEE SEPENOSKI: Number 11, AMP Architecture on behalf of **WILLIAM JIMENEZ** requests a Wetland Permit to demolish and

removal of existing 1-½ story dwelling, wood deck, garage, shed and septic system; construct a new 50'x25' two-story dwelling with a 22'x25' garage (1,896sq.ft. combined); an 8'x34' (272sq.ft.) front covered porch; a 9'x15' (135sq.ft.) rear screened in porch with 3'x5' (15sq.ft.) steps to ground; and an 8'x20' (160sq.ft.) breezeway from dwelling to garage; a proposed 25'x40' (1,000sq.ft.) barn with 8'x18' and 2'x20' (184sq.ft. combined) concrete aprons; install 30sq.ft. Of A/C and generator systems on concrete slabs; install an I/A OWTS with Absorption trenches landward of the dwelling; modify the pervious driveway to be 4,000sq.ft.; install seven (7) 8' diameter by 2' deep drywells to contain roof runoff; and to excavate approximately 7,200 cubic feet of earth for proposed improvements and all 7,200 cubic feet to remain on site for backfill.

Located: 23900 Route 25, Cutchogue. SCTM# 1000-109-3-1

The Trustees recently visited the location on 6/7/23. The nearly illegible handwriting of Trustee Krupski reads as follows: House should be pulled back a minimum of ten feet ideally in line with the barn. Also install non-turf, non-disturbance buffer with split-rail fence.

The LWRP found the project to be consistent, with three points of note: Verify the wetland boundary, establish buffers on the parcel to protect the wetland system, consider relocating structures outside of the FEMA flood zone AE elevation 6, and increase setbacks. Soils in this area are poorly drained.

Trustees are in receipt of plans stamped May 3rd, 2023.

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

(No response).

Comments from the Board?

TRUSTEE KRUPSKI: As stated on the inspection just with the, how close the wetland kind of creeps in on this property, and I don't believe it's on the property, I think it's outside of the bounds, but it's right up adjacent to the property line. It's also definitely a drainage issue property coming off Rt. 25. You know, historical, coming across from the vineyard across and then into there. I think it would make sense, as I stated in writing, you know, pull the house a little bit landward and put in a buffer to try to remediate some of the impacts.

TRUSTEE SEPENOSKI: Yes, addressing the LWRP concerns we did take a close look in the field at that wetland boundary. We did talk about the buffers and the parcel on the wetlands systems, and moving that structure back landward. So we addressed those points.

Any other comments from the Board? Questions?

(No response).

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

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE SEPENOSKI: I make a motion to approve the application

with the following conditions: The house be pulled back a minimum of ten feet to be in line with the barn; split-rail fence 15 feet off the seaward side property line; and make the non-disturbance buffer from that split-rail fence seaward toward the wetlands.

TRUSTEE GILLOOLY: Second.

TRUSTEE SEPENOSKI: And new plans depicting those conditions. That's my motion.

TRUSTEE PEEPLES: Second.

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

TRUSTEE GILLOOLY: Number 12, Twin Forks Permits on behalf of **PATRICK & ANN MARIE BROWNE** requests a Wetland Permit to demolish the existing dwelling (project meets Town Code definition of demolition) down to the 1,480.7sq.ft. First floor sub-floor plate footprint; remove existing rear and masonry stoops, covered porch, concrete slab, breezeway, Bilco doors, A/C units, heating oil tank, front brick walkway and gravel area, fire pit with brick edging and gravel area, and abandon and remove sanitary system; construct a new two-story dwelling using existing foundation (1,480.7sq.ft.) and construct a landward foundation (1,332.7sq.ft.), for a total residence footprint of 3,530.6sq.ft.; existing 669.2sq.ft. Garage to remain in place with exterior roof and siding replaced, and connected to the proposed dwelling through a proposed habitable space; install a 492sq.ft. seaward side patio; construct a 446sq.ft. covered outdoor patio which contains a 407.4sq.ft. outdoor kitchen; install a seaward (east) 58.3 masonry stoop; install a side (south) 57.7sq.ft. masonry stoop; construct a 249sq.ft. front entry covered porch; a side 84.2sq.ft. mudroom covered porch; total residence stoops, patios, covered patios, covered porches is 1,387.2sq.ft. Footprint; a 100sq.ft. Side stairwell egress; install a 4'5"x6'7"± outdoor shower; install new A/C units; install a 380sq.ft. front walkway; install a new I/A septic system landward of dwelling; install gutters to leaders to drywells to contain roof runoff; and to install and perpetually maintain a 10' wide non-turf buffer along the landward edge of the top of the bank.

Located: 1645 Calves Neck Road, Southold. SCTM# 1000-63-7-38

The Trustees most recently visited this site on June 7th 2023, noting: Need new plans depicting reference points for pier line, possible house needs to be moved back into compliance with the pier line. We are also in receipt of a letter of support from the neighbor.

And the LWRP reviewed this application and found it to be consistent. Two reference points here. One is: Minimize irrigation and fertilization with the creation of wide vegetated buffers. And two, no further seaward projection of the single-family residence to be permitted.

The Conservation Advisory Council resolved not to support this application due to lack of information with regard to the

demolition/reconstruction. The Conservation Advisory Council requests revised plans to include a pier line.

Since that issuance we are in receipt, I believe, of plans depicting the pier line from -- the latest plans that I have saying June 2nd, 2023. And given that this project does meet the Town Code definition of a demolition, it is subject to the hundred-foot setback or the pier line. The pier line is something that has not only been consistently held by precedent of this Board but was also redefined by code at the Town Board's March 28th meeting. The new definition of pier line as approved on April 11th is as follows: Chapter 275-2, pier line: The seaward projection created by drawing an imaginary line between the immediately adjacent, existing permitted principle structures, docks, piers, wharfs or floats.

The plans presented for this project do not conform with the hundred-foot setback or pier line and must be pulled back as discussed in the field.

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

MS. POYER: Lisa Poyer, on behalf of the applicant. I would just like to address that last comments.

With regard to the existing foundation, will be utilized by the new proposed house, and in order to remove the foundation and install a new foundation for the house, if it were to be moved further back and in conformance with the pier line it would actually cause more of a detriment to the environment by over-excavating into that area and creating more disturbance on the seaward edge of the proposed house.

Right now the way it stands is the house would be demolished to the first-floor sub-plates. The foundation on the seaward side would be utilized in its current place. It would be constructed going up, and that way there is minimal damage and minimal disturbance to the land disturbance on the seaward side of the house which is most sensitive to the wetland areas.

But I understand the comments, but in this particular case I feel there is an exemption or kind of a special situation where we are utilizing a lot of, you know, significant portions being the excavated part of the land already. We are not going to be disturbing that, we are maintaining the current seaward limit. The neighbor to the west is in support the application for the current orientation of the house because he feels he has more privacy, and the way the new house would be oriented utilizing that existing foundation limit.

MS. HULSE: Do you have a statement from that owner? What are you basing that on?

MS. POYER: I believe he submitted a letter of support to the file and he also spoke with the property owner who relayed that information to me.

MS. HULSE: As long as there is something in the file he actually submitted. Thanks.

TRUSTEE GILLOOLY: Yes, we have that letter in the file.

MS. POYER: So in this particular case we are not demolishing a house, full two-story, full foundation, you know, we are going to be digging a new hole on the seaward side of the house. All of the proposed additions for the new basement area, which is already there, we are just expanding it on the landward side of the house. This is being crafted for this property to maintain that seaward limit and no disturbance.

MS. HULSE: When you are saying "no demo," it fits the definition of a demo in the Town code, correct?

MS. POYER: It does because we are demolishing the first and second floor, but the foundation --

MS. HULSE: So it's considered a demo of that structure. Just for clarification.

MS. POYER: Correct.

MS. HULSE: You are saying you are not demoing, but you are actually demoing per the code.

MS. POYER: We're demoing per the code but we are not doing a full demo where we are going to be removing the foundation, digging a whole new hole in the ground, disturbing a significant amount of land. We are utilizing that existing seaward limit of what is there, and I feel from an environmental standpoint putting in a new foundation in the ground would cause more detriment on this piece of property.

I think this proves it is a unique situation. The house, the proposed house, has been designed to utilize that; to utilize the historical orientation of the house. We will also speak to the silt fence and hay bales, you know, to help control that, but we are not going to have an excavator in there digging up the foundation and disturbing that soil that has been there, settling in and formed around the foundation and stabilized the slope. There is significant vegetation there.

TRUSTEE SEPENOSKI: Can the house size that you are proposing be achieved on the property if it were relocated roughly ten feet landward?

MS. POYER: We would be demolishing the foundation that is there right now and causing that additional disruption.

TRUSTEE SEPENOSKI: But just in practical terms.

MS. POYER: It would be something we would have to take a look at, the architect would have to look at.

TRUSTEE SEPENOSKI: So moving the house ten feet landward to be within the pier line, you said you could still achieve the same size structure that your client desires and meet our setback with the respect to the pier line.

MS. POYER: Right now we are trying to look at it from an economic standpoint as well, utilizing what's there. We are trying to recycle what is there. We are trying to use the foundation that is in the ground when we place the house, the new proposed house immediately on top of that instead of incurring additional demolition costs, carting off additional foundation rubble. All of those items that are already there that can be utilized.

MS. HULSE: So that has to be something that is going to be generated by the inspection by the Building Department, obviously. It may be you might not be able to use that. Maybe you're speculating and hoping that you can, but that might not be the case.

MS. POYER: I can have an engineer come and take a look at it, if that's going to factor into this, that the existing foundation can't support the proposed house. If that's what we need to do, we can have an engineer look at that. If that's going to be the one pivotal point for maintaining the foundation.

TRUSTEE SEPENOSKI: We just had an application this evening where a house was very close to the top of bluff and had the client move their house back significantly from top of bluff, they would have had both an environmental benefit to the property and previous stability of their bluff.

Now, we don't have a bluff situation here per se, but this property is bulkheaded with the structure down low and it would be nice to have an additional buffer on the rear yard facing the water to prevent runoff from any lawn as proposed in the area for runoff and nitrogen and other chemical purposes.

MS. POYER: We are proposing a ten-foot wide buffer with the application. We are proposing an IA system for the site.

TRUSTEE SEPENOSKI: I guess to put it in plain English, I don't particularly buy into the argument about the environmental benefit of leaving the foundation in place. To me it's a project that is looking like we want to be a big house as close to the water as physically possible.

MS. POYER: So if we were to renovate the existing house and do an addition on the landward side of the house, the existing house could remain in place if it didn't meet demolition code --

TRUSTEE SEPENOSKI: Sure.

MS. POYER (Continuing) and we could come back to you with that application. And then the house would still be seaward of the pier line.

TRUSTEE SEPENOSKI: Yes. Where it was constructed and given its CO.

TRUSTEE PEEPLES: And that would be a different project.

MS. POYER: Correct, but we are trying to improve what is -- okay, so we'll have to go back to the applicant and have a discussion.

TRUSTEE GILLOOLY: So at this point would you like to --

MS. POYER: I would like to hold it open, please.

TRUSTEE GILLOOLY: Okay. I'll make a motion to table this application.

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: Oh, I'm sorry. May I please reopen this hearing.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GILLOOLY: Is there anyone else here wishing to speak

regarding this application?

MR. BURGER: Yes. Eugene Burger. I have been a builder in Southold Town for 42 years. To answer your question about the foundation, I'm, you know, I'm supposed to be building this house for this client.

To answer your question about the foundation, it is substantial and it's definitely something we would keep in place. The pier line only crosses by less than a hundred feet or, no, right at 100 feet. Which we showed you guys the two side houses, correct? Have you guys looked at that? Because I brought copies in case you hadn't.

The other thing I want to say is, you know, the application for this permit was put in prior to the big house, and I know I heard you guys saying that, oh, you've been doing this pier line, but if you follow your code there is no reference to the houses in the old 275. It only got put into there, in the new code, and the application was put in prior to that. So I believe this application is exempt from that pier line.

MS. HULSE: The pier line definition that was in the code previously was different than what is obviously amended to, however it's been the practice of the Trustees to use that adjacent properties as a basis for many, many years. Many years. And I mean, I go back 18 years and they were doing it 18 years ago. So they have been doing --

MR. BURGER: I don't believe the Trustees were. Southold Town --

MS. HULSE: Yes, the Trustees were.

MR. BURGER: No. I believe that -- you're not going to let me finish.

MS. HULSE: Go ahead.

MR. BURGER: In the old days we used to have to line the houses up, but not because of the Trustees. That's the way the Town wanted it done.

TRUSTEE KRUPSKI: If I can speak to that. And I understand you're frustrated and I understand where you are coming from. But the Trustees, the Board that I have been on for, you know, eight years now, we have been conforming to this pier line to the point of moving applicants back a foot, if needed. Including existing foundations. And when the Board, you know, we discussed with, you know, multiple Town attorneys if it meets the definition of a demo, that is something that we have been looking at very strongly.

MR. BURGER: All right, so let me ask you a question though, Nick. So what's the goal with that? Because to Lisa's point it's way more detrimental impact to the property by tearing the house down, digging the foundation. She's 100% right. I do this all the time.

TRUSTEE KRUPSKI: I would disagree that point. When you demo a house, everyone knows you pull it into the center, and you are pulling back. You are not on the bluff pushing or pulling toward the bluff. That's just not what it is.

You know, it's, I don't see it as -- I think that -- in

this case I don't think we are specifically speaking environmental impact. It's been the practice of the Board, you know, including putting that forward in our code. And when I tell you this, I'm being honest, nothing to do with building code and nothing to do with big house law. We are trying to prevent the creep of houses throughout the Town going forward and forward and forward. You know, with the intensified storms we've been seeing, we are trying to pull everything back and we are also trying to protect neighbors' view sheds. So I understand it's frustrating and, you know, we try to work everyone but this is something we've been taking very seriously for quite some time, separate from the Building Department.

MR. BURGER: So it's, you said frustrating, but it's to the tune of like \$300,000. So they went for a variance already to keep the garage. Is the garage still able to stay?

TRUSTEE GOLDSMITH: (Affirmative nod).

MR. BURGER: So we just have to turn the portion of the house, that eight, 14 feet, whatever it is, that 100 square-feet, to get that out of the pier line, or are you asking to bring the house back even further?

TRUSTEE GOLDSMITH: I believe it was the northeast corner, where the pier line is, cut off the corner there.

MR. BURGER: Northwest corner; I have it here. Do you want to see it?

TRUSTEE GOLDSMITH: Closer to the creek, isn't that east?

MR. BURGER: You are saying where the pier line is? It's on the west side. Would you like to see this quick?

TRUSTEE KRUPSKI: (Perusing). I would call it north.

MS. POYER: I would call it the northern point of the house. Given the orientation of the house on the lot.

TRUSTEE GOLDSMITH: Closest to the creek there, that corner of the house. That's the only section that is seaward of the pier line.

MR. BURGER: That's correct.

TRUSTEE KRUPSKI: And just to be clear, we are not trying to pull the whole project back, and we are not trying, I'm not telling anyone to re-orient the house or anything like that. It's just we want the living structure to be pulled landward of that line. So if there is a better way to do that, we are certainly open. We are trying to work with you here and your applicant, you know.

MR. BURGER: We'll try to redesign it, I guess, right? Or withdraw it?

MS. POYER: We'll leave it open.

MR. SCHWARTZ: Mark Schwartz, Architect for the project. I have been living and working in Southold Town for 30 years. I know rules change, but we have been working on this project for well over a year. This pier line, the little corner of the pier line is a miniscule area of the project. And I understand we are not creeping at all. We did show some bay windows that we assumed we could remove. We did show a patio. But I don't consider this a creep in any sense.

We are doing a new IA system, we're certainly going to do

the drainage off the drywells from the roof. So it's a net positive environmental project, for sure. And I understand the pier line, we are kind of caught in the middle because we started a long time ago, and now this came into effect by law I think two-and-a-half months ago. By law. By law.

TRUSTEE KRUPSKI: That's not the case.

MS. HULSE: I've addressed that. That's a mis-statement because that's always been the practice of this Board. And previous Boards to that. And it's been the practice of the Board that they have taken the adjacent properties as the pier line.

MR. SCHWARTZ: But was that law at the time?

TRUSTEE SEPENOSKI: The Trustees in Chapter 275 have discretion to waive the pier line if need be, but we hold fast because we believe in the principle of it.

So 275, so even though it is policy of the Trustees is not previously law, now it currently is law, so the effect is the same.

TRUSTEE GOLDSMITH: We codified the practice and updated the definition to make it clear as possible, because there were misconceptions based on what is and what is not a pier line. So with this latest definition, it's clear to all its living structure to living structure on the immediately adjacent property.

TRUSTEE KRUPSKI: And quite frankly, we codified it because this Board kept having to have this conversation with architects and applicants, and at some point it's the same conversation over and over again, either someone has to learn or it has to be codified.

MR. SCHWARTZ: But again, this is an existing corner, 112 square-foot of area that's over the line.

TRUSTEE GOLDSMITH: We've done it for three feet, and there's people in this audience who did applications that had to move or adjust their plans to adhere to the pier line.

MR. SCHWARTZ: So if we leave that corner in place and build around it, then it's okay.

TRUSTEE GILLOOLY: Not if it meets the Town Code of a "demolition."

MR. SCHWARTZ: Okay.

TRUSTEE GILLOOLY: Is there anyone else here wishing to speak regarding this application?

(No response).

I make a motion to table this application.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE PEEPLES: Number 13, Patricia Moore, Esq. on behalf of **CAROLYN & JOSEPH FERRARA** requests a Wetland Permit for a proposed 3'x36' fixed dock consisting of 4"x8" pilings with 4"x8" caps (CCA), 4"x8" (CCA) stringers, and open grade style decking within the area of a private mooring lot and adjacent to bulkhead; and to install a 4' wide path to the road.

Located: Property Off of Osprey Nest Road, Greenport.
SCTM# 1000-35-7-1

The Trustees reviewed this application on November 9th in the field and noted it was not staked. Concerns regarding neighbor right-of-way, concerns regarding navigation and hazards to navigation.

We most recently reviewed this application inhouse on June 7th of 2023. Bear with me, there's more paperwork here.

The LWRP found this application to be inconsistent, noting, number one, the safe navigation of vessels needs to be further evaluated. In 1957 when the mooring lots were created, the number and size of vessels would have been different from those today. Stakes were used to moor vessels and an owner would pull them into the shore to board.

The Conservation Advisory Council resolved to not support this application, noting the application, due to the concerns with navigation around the other docking facilities.

I am in receipt of several packets, one received on June 12th, 2023, from the Law Offices of Wickham Bressler & Geasa PC; Another one received on June 8th, from Patricia Moore, attorney at law.

I believe those are the most recent items we received. And I do have plans stamped and dated September 19th, 2022, as the most recent in the file.

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

MS. MOORE: Yes. Good evening. Patricia Moore, on behalf of the applicant.

I have with me Joe Ferrara, the owner, who is here, and I also have Jack Costello who is going to be the contractor on this, and I also wanted to get some information from him on the record. So I'll just get started and then I'll defer to Jack for a little bit.

I did want to bring us up to speed because this application was filed back in November. We did get the property staked. I know that the Board inspected, or one or some of you, went out to inspect the staking.

The plan is in fact for a three-foot wide fixed dock with flow-through materials. It is of a lesser dock than are all the other docks that have been granted on these mooring parcels.

The Ferrara's have a very small 23-foot Boston Whaler. It has an eight-and-a-half foot beam, and the mooring lot can certainly accommodate that particular boat. We would go so far as to offer what would be common sense, which is to put a limitation on the boat size on a mooring lot.

You can see from the lots that are there on Cleaves Point, all the boats are in the range of 25 to 32 feet. That is the reasonable size for the mooring lots that are there.

The mooring lots themselves appear as lots, fee titled, on the Cleaves Point subdivision map. And while I understand the LWRP's comments and his belief that in 1957 the boats somehow

were different, there have been boats of this size in '57 throughout. If anything, the boats that are current, newly constructed, are even more flexible and maneuverable than the old boats. But that's just observation.

The mooring lots themselves are all of equal size, are all 20-feet in width. Our fixed dock is three feet, which leads an open area of 17-feet for maneuverability of bringing the boat into the dock space into the slip.

We've had issues with the Cooper's dock. I gave my letter to you documents what we think is the problem with the Cooper's dock, and the ability by the Trustees to demand and direct him to move his dock into the proper location. I would remind the Board that these mooring lots are in fact ownership, underwater ownership, and in the past and certainly presently, owning the underwater land has a greater weight than if you are asking for permission from the Trustees under your proprietary rights and permitting rights.

So I would have you consider that more important here with respect to the Ferrara's right to place a dock on the property and to maintain a boat on their property.

Gull Pond and the lagoon, you know, and I'm just putting on the record, you know that this lagoon is a very protected water body. It's inside Gull Pond. My understanding is, and you may know better than I do, is that it grew in 1938 through the hurricane, but ever since it has been the subject of dredging. Cleaves Point subdivision map shows these mooring lots. These particular lots were all approved by the Planning Board in 1957. And the map was filed with the Suffolk County Clerk. So the Town blessed this map.

The property owners in Cleaves Point all recognize these lots. And every lot owner, including Cooper, who is an owner in Cleaves Point knows that the existence of these lots and the development of these lots is anticipated and authorized.

A denial of this dock application makes a mooring lot, which that's all it is, it's a lot for a dock, would make this lot meaningless and valueless. So it's a very important, very valuable asset to the property owner.

To our adjacent east, our fixed catwalk is hugging that property line. That was done with discussion with DeMercian (sic) and Fitzgerald who are the owners of the adjacent tax lot numbers two and three. What they did is they got together and they put a dock in the middle of the two properties and they have their boats on either side.

Originally, they came and they were concerned, and I believe they may have objected to an earlier application. In this instance, this was shown to them, my client met with them, staked it, so that they could see it, and once they understood the application, they had no objection to it. That's why we proceeded as we did with this dock design.

The dock that we are presenting to you is dealing with the situation with the Cooper dock as best we can. We have an

existing encroaching condition, and we are working within the bounds of that. Certainly we don't agree to it, we don't consent to it, but we want to move on.

As far as the dock being a navigation hazard, we strenuously disagree with that analysis. The water depths in this area adjacent to all the mooring parcels are over six-feet in depth.

The lagoon is an unobstructed area behind these docks, so boats can come in and out, backing in and out, very comfortably, with no obstructions. And certainly a lot easier than when you try to dock into a slip of similar size.

There are 16 mooring lots in total on the map. There are 12 approved docks on these properties. All of these docks and the mooring lots run with the land and they are attached to landward lots in the subdivision.

The Ferrara family is, their upland parcel is Lot #35. So this mooring lot connects to Lot #35 upland. The 16 mooring lots are in fact, they constitute a private marina of individually-owned parcels. They are all designed to give each owner their own dock with a small boat. Each lot is the same size. They are all 20 feet in width and 43 feet in length, and the way that this dock has been designed it leaves 17 feet of clear, unobstructed area for purposes of docking a small boat.

At this point, I would ask Jack Costello to come and, I know you know him very well, but I want to put on the record his background and his expertise with regard to the navigability of this waterbody and the dock. So, Jack, why don't you come up. We'll share a microphone, if you have any problems hearing.
MR. COSTELLO: Good evening, Trustees. Jack Costello, on behalf of the applicant.

This seems like it's gotten a little more confusing than it has to be. This picture tells a lot. You can see how those lot lines, and even if Elizabeth zoomed out a little bit more, you can you see how the lot lines go through the docks, over the docks and everywhere. And you can clearly see where the Ferrara property touches Mr. Cooper's dock.

So basically what we are saying is that the, I would call it the east side of that dock, is unusable to Cooper, where he has the west side of the dock he uses, as do many people down through this development, they only have one side of the dock.

If you guys have page five out of seven that is dated on June 6th, 2022, do you guys have that available in your hands? I have them for you.

TRUSTEE KRUPSKI: We have the copy in the file.

MR. COSTELLO: I have extras right here. Just so there is a clear understanding that where this property line is in relation to Cooper. It hits Cooper's dock. And basically this property line will be here, and this is his property. And this is where it's going to go through.

TRUSTEE PEEPLES: Excuse me, Mr. Costello is this Exhibit A, in that

section?

MR. COSTELLO: It's sheet five of seven in the application.

TRUSTEE GILLOOLY: In the application.

TRUSTEE PEEPLES: Oh, in the application packet.

MR. COSTELLO: In the application plans. And I just put some cross hashes in there to represent where his property is. And that seems to be a point of confusion. What we are contending is that this slip is navigable for a boat, you know, nine-feet wide to 30-feet long. The boat will be completely over Mr. Ferrara's property and does not interfere with Mr. Cooper's property line.

And I just felt it was a little bit of confusion about how this nonconforming facility, you know, works with shared docks, and even the neighboring dock, with Herrmann and Fitzgerald, obviously they'll share a side. Everybody, most of these docks only have half a dock. And this is a situation where Mr. Ferrara is also only going to have half a dock. The other side of the dock will be unusable because that boat would infringe on the, with the neighboring property line.

So we are only going to have one boat slip at this dock, and I feel it's perfectly navigable for one boat. And you can see where the property line is, it seems pretty clearcut, that he's not going to be interfering in anybody's property line, and that is actually non-conforming with this whole situation because every piece of property there is crossing property lines and interfering with other people's property.

He'll be in a situation where he'll be confined to his property, which is actually a rarity in this situation.

MS. MOORE: Jack, just so I have your credentials on the record. How long have you been Costello Marine, working as Costello Marine?

MR. COSTELLO: Full time with Costello Marine, upwards of 33 years. Building docks, expediting permits. Luckily most people on this Board know me.

So, I mean, like I said, this is a situation where I think the plans were not clearcut about where the property ownership was. Because this is a situation of ownership over the bottom. The dock structure will be completely within land owned by Ferrara, the boat will be completely on Ferrara's property, and that's probably the only situation where you'll have down here where it's the owner is completely over his own property.

So what we are requesting is an approval based on what we've applied.

MS. MOORE: I have just for your files, for the record, I hand-drew all of these individual mooring lots, and the permits that have been issued for each of the mooring lots. Some of them I have highlighted because, by example, next door to us, that Schira (sic) dock, that dock predates the Trustees.

The Trustees got jurisdiction over these kind of things in the '80s. And before that the Town Board. But if you were the owner of the underwater land, often times you could put the dock

in without the need for either Town Board or Trustee permits.

So many of these docks, the ones that I've identified, I identified the permit numbers, those that did go through review. But there is a lot more docks there than the permits that are shown. So I'll just give that to you for your records. That's all. It's not very fancy but it identifies all the different permits. Thank you.

MR. COSTELLO: Does anybody have any other questions for me?

TRUSTEE PEEPLES: I was wondering if you submitted to DEC.

MS. MOORE: Not yet. We need your approval. We don't want to - you know, we have to start somewhere.

TRUSTEE PEEPLES: Okay. And then Mr. Costello, from your professional opinion, it does appear that, in what you just submitted to us that the current location of the dock is out to about 4.2 feet of water depth?

MS. MOORE: Our proposed, yes.

TRUSTEE PEEPLES: Yes. In order to dial back the length a little bit, there would still be able to maintain that water depth that will be required.

MR. COSTELLO: The problem is the dock is only 36-feet long and as you go inshore, say, you know, you want to dock a boat of 25 feet, 30 feet, whatever, it's almost going to take up the entirety of the dock, and then you would be almost up to the mean low water line. So you would have zero water, at 30 feet you have zero water at low tide.

And if you look at the plan, there is a line delineating mean low water. That is zero low water. So shortening the dock would not be practical. We already have shortened the dock from the original conception, to give more room between the Cooper dock and the Ferrara dock. But basically a dock being three-feet by 36-feet is a very small fixed pier. I just, if you look at those contours moving in, you know, we basically at 20 feet in you only have a foot-and-a-half.

So even though their dock does terminate at 4.2, it quickly comes right up. So, I mean, shortening it doesn't seem practical. Or shortening it any more.

TRUSTEE PEEPLES: Thank you.

TRUSTEE GOLDSMITH: Mr. Costello, any possibility of dredging in this area? I know there is a history of dredging in Gull Pond.

MR. COSTELLO: Well, this piece of property, the thing is you have to prove that it's been dredged in the past 20 years, and absorbed in the conversion rate of the habitat again.

Fighting that fight is rarely won, and the DEC rarely even accepts the application. They return it. This may be a situation where it may be possible but, um, that is a pretty strong fight. And like I said, they usually just return the application and say not permissible, the version of the applicant.

TRUSTEE GOLDSMITH: Like you said, by these plans it does shallow up really quickly. I didn't know if it alleviates, that if want six-feet of dredging in that area to maybe reclaim some of that.

MR. COSTELLO: It just seems like there is enough room to do what we have to do. Like I said, the issue is the property line. The property line comes right up through the dock. I mean, shortening the dock doesn't really help Cooper, it doesn't really help the next-door neighbors on the other side. You know what I'm saying? And we have plenty of room to navigate this at 12'9". We have plenty of room to navigate in there. So to try to get a dredging permit is --

TRUSTEE GOLDSMITH: Okay.

TRUSTEE PEEPLES: So, when we were last here in November of 2022, Ms. Moore, there was kind of an agreement that was made at the podium that the homeowners, the Cooper's to the west and this property owner, were going to work together through yourself in order to come to an agreement and I, is this a result of that?

MS. MOORE: No. We've been exchanging communication up through today. We got pretty close. We offered as much as we could offer but then we were being asked to do some things that were, in our opinion, impossible and beyond what would be accepted by the DEC or Trustees. So I mean.

TRUSTEE SEPENOSKI: Such as?

MS. MOORE: Well, Mr. Cooper wants the same dock he has now, and when you replace a dock, my understanding of this Board and the code says that we have to, when it's replaced, it has to be replaced with a conforming dock. So in other words a ramp and a float, but not a 30 or 40-foot float, which is what is presently there.

So we presented to Mr. Cooper the design, and I think we included it so you would see that we are communicating and we are making offers. And the most recent communication back, there were some adjustments that we unfortunately, and Mr. Bressler is here, he can speak for himself. But he had not gotten the letter. But he did get it today. It was staff, not us. So he did get a chance to see it and review it with Mr. Cooper.

But, I mean, we are happy to talk to or put on the record a discussion of what we were willing to do with Mr. Cooper, and get your input on whether or not a dock that would be proposed would be feasible. But, you know, we've offered as much as we can offer and we kind of reached our, you know, our end point. And I don't think we, you know, there is always a push for more, and just like you, we're dealing with the pier lines, you know, you get to a certain point, I'm sorry, that's as much as you are going to get.

So unfortunately we were not able to come to that compromise. Because certainly, I don't know if it would change our dock design in any way, it only would solve the issue of having the trespassing or the encroachment that is presently on, the situation today.

Am I correct, would it change our dock design?

MR. COSTELLO: It wouldn't change our dock design, and at this point all we are doing is asking for approval for what has been applied for. Along this property, his boat would be on his property.

And then, you know, the Cooper dock is right against the property line. And you can see it's very conforming with everything else there.

So we are just asking to do work completely within the property of Mr. Ferrara and we are not going to really involve -- you know, this is a minimal structure on Mr. Ferrara's property. And that's what we are sticking for right now.

TRUSTEE PEEPLES: Okay. Well, thank you. We do always appreciate trying to work with the neighbors, and, you know, that is something we are not really able to weigh in on, but that is something that seems to always be a positive. So, thank you, for that.

TRUSTEE KRUPSKI: I mean, just throwing it out there, the Trustees have been to this site multiple times at this point, and I understand the concerns of the neighbor. You know, if they were going to, certainly if they were going to rebuild their whole -- like if an applicant comes in to rebuild a whole project, we are going to bring it into conformity. If an applicant applies for a slight modification, you know, when you're talking about floats and a few piles, that is very different than rebuilding say a whole catwalk. So relocating a few piles and sliding something, you know, a floating structure over, is certainly not something that has never been done before.

So without going down that road in depth, that is not for us to talk about here, I'm just kind of throwing it out there that this, you know, there's more than one way to skin a cat.

MS. MOORE: I mean, certainly if it was just moving, we would, we were offering a lot more financially than just moving it. But if it's moving it and slightly adjusting it, by all means we would I mean that was a presumption here. You know, if you keep the same dock you've got, we'll just move things so that they are not in our way, by all means we would undertake take. That is a very minor expense compared to what we were offering.

So, if Mr. Cooper was willing to do that, absolutely. You know, that can be worked out between us. I don't think -- it's such a minor, I think would be relatively minor issue because I think if you go back to the original permit of '72, I think that is where it was supposed to be and it just shifted over time. So I don't even think that a DEC would care that you are moving things back because there can be some shifting, so we would really be just moving a pile, repositioning the existing dock that's there. They are always willing to do that. But again, it doesn't change our dock design because we are using only our waterbody, our underlying land.

TRUSTEE GILLOOLY: It would change the feasibility of using both docks.

MS. MOORE: Of Cooper's dock.

TRUSTEE GILLOOLY: Yes.

MS. MOORE: I'll let you speak to that.

MR. COSTELLO: That is not part of this application, at this point so, you know what I'm saying, we are looking for approval

on a minimal dock, 3x36 clearly inside the property lines of Mr. Ferrara. That's what we're here for.

MS. HULSE: I think it's because you brought that issue up. And that's why the conversation has been generated.

MS. MOORE: And Mr. Bressler is here, so we are happy to have that conversation.

MS. HULSE: I just want to make it clear that's why we are talking about it.

MS. MOORE: Yes.

MS. HULSE: Have you provided to the neighbor the documents that you provided to the Board tonight?

MS. MOORE: Always?

MS. HULSE: The ones you provided to the Board tonight?

MS. MOORE: Oh, this one?

MS. HULSE: Whatever you provided to the Board tonight.

MS. MOORE: Yes, I can give it to him. That's fine. It's a hand drawing with the permits. It's all in the Town record.

MS. HULSE: Thank you.

MS. MOORE: Sure.

TRUSTEE PEEPLES: Is there anyone else who wishes to speak in regard to this application?

(No response).

Is there anyone here who wishes to speak?

(No response).

We are inviting anyone else to speak at this point.

MR. BRESSLER: Yes. If it please the Board, my name is Eric Bressler, Wickham Bressler & Geasa, Mattituck, New York, representing Robert Cooper.

I get a distinct sense of déjà vu being here. It seems as though we went through a lot of this stuff the last time we were here. I think it was November. And there has been a spate of letters since then, but nothing really has changed.

It's a hazard to navigation, that is obvious to everybody. Notwithstanding the arguments to the contrary.

At the outset, let me, if I may, disabuse the Board of a couple of issues that seem to have reared their ugly heads. And I want to put them to bed right now.

Number one, since the permitting and the construction of this dock, Mr. Cooper has kept boats on both sides. The affidavit we submitted reflects that. There is no evidence to the contrary. It's just an argument by one who has no knowledge of the facts. That's why there is an affidavit before you.

And the second, and more disturbing, I think, even than that, and I heard it again tonight, that this dock somehow has legs and it moved. This dock did not move. You have Mr. Cooper's affidavit. You have the photograph of the construction going on. Which was done by Costello, by the way. And since there was no permit that related to the dock, only the bulkhead, the only thing that was done was the ramp was removed. You can see it in the picture, the bulkhead was replaced, and the dock remained unmoved. It has not been reoriented, it has not been moved, it

has not crept. It doesn't have legs. So let's move along from that.

Now, I don't want to reprise everything that I went over the last time, but I do want to hit the high points. And the high points are these: This dock, this permitted dock, has been there for more than 50 years. There have been boats docked on both sides. That dock has a vested right to be there.

Now, of course the drawings, and I call them drawings, by Costello, because he said he took it from a survey that he didn't do. The drawings clearly show that this dock is not on claimed lands underwater of anybody else. It's just not. So let's forget about the land under water business. That's got nothing to do with it. I know it's a marine thing but that's a red herring. Let's forget about that.

Now let's talk about whether or not there is some sort of encroachment on surface waters. Because that is what we are talking about here.

There is a claim that this 50-year old dock somehow encroaches on what is properly the foreshore area of a mooring lot. It's been there for 50 years. It has a right to stay. It's there adversely. It's there by acquiescence. It's there. It gets to stay.

Now, the Board asked a question, and I think it was a fair question, about what is going on to try to resolve this. And I put in my letter to the Board the philosophical basis for what we were willing to do. As I said, I don't really feel comfortable talking about it because as lawyers we tend not to do that in the forum that we mostly practice in. But since it's been brought up, I'll address it in a little more detail.

The fundamental principle from our point of view is, having these vested rights, we can take a hard position, and I think the Board would probably agree, that they have no right to anything. It interferes with navigation and they don't have a right to it. Maybe they get to have a Clorox bottle or something to tie-off a boat to.

But we didn't take that position. We took the position that, to borrow a phrase from the bankruptcy format, we want the indubitable equivalent of what we have now. And if you can find a way to give us the indubitable equivalent of what we have now, we'll play ball with you. And if that means moving it over a little bit, we are willing to do that. However by moving it over, several issues are created.

According to Plan B, the first issue is that that dock is shorter and we don't get as far out into the deep water. So you got to do something to address that. You either got to dredge, which is problematical, or you've got to give us back what we had.

The second issue is if you look at the drawing and you look at where -- I see the photograph -- and you look what happens if you move that over, now all of a sudden the room to dock the boat on the west side is markedly decreased. Maybe you get a canoe in there. Okay? And you are moving it over toward the

neighbor's property, and while it's true their dock is some distance away, nonetheless that is greatly reduced.

So one of the things that we wanted, in fact there is at most six feet, which is hardly room to get anything in there, before we start running afoul of arguably their property line.

So what I was concerned about was get a sleeve to have the same orientation and the same amount of room over there. Maybe the neighbor will agree to that. Maybe the Trustees don't have a problem with that. I mean, in truth and in fact, the 15-foot rule is thrown out the window on every single mooring lot. It just doesn't apply.

So, in order to put us indubitably in the same position, we wanted to make sure we had the same room on both sides. We wanted the same length, we wanted the same room. And then we wanted to come to an agreement as to what is going to happen on the east side when they drop a dock in. How is that going to be divided between the docks? And again, we propose you divide that evenly, both sides get ten feet, which is more than enough for a boat. It's not exactly what we have now, but it's something we can live with. Rejected.

So we did what we could to try to accommodate when we had no obligation to accommodate. And, you know, we just ran into a stone wall.

I think that the law is firmly on my client's side. But, as I said, they are neighbors down there. And one of the rejoinders from the applicant was, well, you know we can't do that, or the Trustees won't approve.

My answer that that was how do you know that until you approach the Trustees, put it in front of them, and say maybe we need a variance or two in order to get this done so everybody can live together.

You don't put the cart before the horse, you take it one step at a time.

So the answer to your question is what I just said. You asked about the settlement. That's what was going on. We bent over backwards to try to make this thing work.

And of course the last point was, we'll do all that, your nickel. And we got pretty close on that, actually. Actually, in the end.

So the long and the short of it is the law is pretty clear. We laid it out. There is no absolute right to a dock. In fact the applicant's own case has established that. There is no absolute right to a dock.

I cited a federal case, maybe you get a mooring, maybe you don't. But there is no absolute right, especially when the thing has been there for 50 years. And you can't just take away those rights. So --

TRUSTEE SEPENOSKI: Mr. Bressler, just to clarify, what right is the Ferrara dock application infringing upon?

MR. BRESSLER: The Ferrara dock application is going to interfere with the use of our dock.

TRUSTEE SEPENOSKI: You're talking about -- you're claiming that the Cooper dock has a right to vessels on both sides or either side of the dock.

MR. BRESSLER: We have done it uninterruptedly for 50 years and I do believe we have that right.

Now, the owner of that lot, the predecessor of Ferrara, has acquiesced to that. It was never a problem. There was never an objection. And in addition to the claim of adverse possession, another way to determine property lines is the way the parties have dealt with the property over time.

So he puts the dock in, and now what do we have. A race to see who puts the boat there first?

That's just not reasonable. And hence our attempt to try to resolve this thing. But --

TRUSTEE SEPENOSKI: So you are, to adapt a phrase currently in common parlance among the youth, your applicant is dock-blocking the adjacent property from having a dock.

MR. BRESSLER: Well, if he puts his dock in, we are blocked. And you know, I do want to address, without dragging this thing out ad nauseam, when you get sick just tell me I'll sit down.

But I do want to make one other point. And that is this is not as peculiar as someone would lead you to believe. If you look at the shape, the concave shape of the shoreline, that is not an uncommon situation. And when you're talking about docking when you are not, you don't have a straight shoreline, you are going to have these problems. So this is not an unusual situation. The only thing that distinguishes this, of course, is that they don't have a mooring lot and we have been there for 50 years, and there is going to be a big problem if he doesn't.

If they want to come back and talk about the matter further, we are happy to do it. But I don't think on the facts and on the law that this application should be granted.

TRUSTEE PEEPLES: Thank you.

TRUSTEE SEPENOSKI: You are a masterful example of forensic rhetoric, of epideictic rhetoric, but I would like to know what you will do to take us into a deliberative phase of this argument.

Are you saying you are going to go back and talk to each other and figure this out, or are you both wishing we just move on this?

TRUSTEE KRUPSKI: You should probably speak into the microphone for the record.

MR. BRESSLER: As I said -- I thought I was projecting enough. As I said at the last meeting, I am always willing to continue the conversation. I felt that we were reasonably close on a lot of the issues, and I think that they can be resolved, and I think that it is patently unreasonable to say, well, we can't talk about that or agree on that, subject to what the Trustees might say, because we think we know what they are going to say.

Well, we don't know what you are going to say. We can only come to you with a proposal and ask you to evaluate it. So I'm

willing to keep doing that. It is a concave shoreline. There is an existing structure. We can come to you.

But if they are not willing to negotiate on that basis and they are going to take the position that you are going to say no, then I don't know what to say. So.

TRUSTEE KRUPSKI: I will just say that there are several times the Trustees have been in a habit for, I mean at least a decade, of offering a pre-submission conference where you get the, and I think it's \$150, which for the resume sitting on the dais here is, I mean, you would be robbing us. But it would go a long way toward getting an understanding of where the Board would stand on an application.

MR. COSTELLO: I met with Jay Bredemeyer throughout this whole thing, and he just looked at the project and said they are all nonconforming, don't worry about it, this is a slam dunk. And that is where the whole thing started. Not much has changed. But we blame it on Jay.

But if you look at these docks, as you can see, where the property lines are, you can start counting them, one side of the dock, one side of the dock, one side of the dock, one side of the dock, one side of the dock. Almost every dock there only has the right to use one side of the dock. And take that at face value.

And like I said, this is one of the only docks that will be entirely on his property. You can see they all cross the property lines, and everybody only has right to one boat on one side of the dock.

TRUSTEE KRUPSKI: Can I actually ask you a direct question as a working professional and one of the few non-attorneys involved in this application.

MR. COSTELLO: Sure.

TRUSTEE KRUPSKI: I mean, as a dock builder, do you see a logical bargaining in this between two neighboring properties?

MR. COSTELLO: At this point we are not asking for any -- it's not that we can't negotiate this at this point, I don't think. I think what we are applying for is we are asking for the Trustees to vote for an approval on this application on Mr. Ferrara's property.

At this point I don't really think discussing those options is right now in this venue, because it's going to take more than three minutes that we are allotted.

TRUSTEE SEPENOSKI: That was very, I appreciate your discretion and control.

TRUSTEE PEEPLES: Is there anyone else here that wishes to speak? Any other questions or comments from the Board?

TRUSTEE GOLDSMITH: I'm just having a hard time figuring out how one dock has a vested right but not another. Obviously the precedent set in this area, they all present hazards to navigation, because it is a tight area. But historically there has been docks there and it's worked. So I'm struggling with seeing how one can say I can have a dock but not another. That's where I'm at.

MS. HULSE: I think, just to clarify, we are throwing around the word "right." It's not a right. That word is being thrown around by a lot of people. There is no right to use one side or the other or both sides. That's not the way it works.

So obviously the way it has developed in this area, by necessity it's come to this. So I'm not sure that saying one person has a right while another doesn't have a right, is really accurate. I don't think it is at all.

TRUSTEE KRUPSKI: Thank you.

MS. HULSE: Mr. Bressler, as just a question. You had mentioned something about wishing to maybe consenting to moving your dock, correct?

MR. BRESSLER: We were discussing a movement of the dock westward.

MS. HULSE: So was there ever a discussion about applying jointly for these applications, to put it together so that it could be worked out among the Trustees in a more sort of global way and sort of comprehensively addressing this area, or is that something that was discussed and rejected?

MR. BRESSLER: Well, I had suggested apropos my earlier comment that we should not put the cart before the horse, and that it would be appropriate to approach the Trustees when we had reached a philosophical understanding to try to see whether this would be something that the Trustees could live with, instead of deciding on a pre-emptive basis that the Trustees would not consider it because, you know, quite frankly, this whole business with these mooring lots is a problem. And I think it would behoove us to get as far as we could and come before the Trustees and find out what your thinking is and what you would be willing to approve in order to move past the current difficulty.

MS. HULSE: Which is I think what Trustee Krupski was referring to when he said pre-submission deal of a lifetime.

MR. BRESSLER: Yeah, I thought the suggestion of a pre-submission conference, if we could get far enough, was, pardon me, extraordinarily constructive.

TRUSTEE GOLDSMITH: Quick question. On the plans that you submitted, what is the proposed length of the dock? On one side we are seeing 36 feet, and the other side looks like 29 feet and 12 feet?

TRUSTEE GILLOOLY: Or is that two feet?
(Perusing).

MR. COSTELLO: 36 feet on both sides.

TRUSTEE PEEPLES: So what is the 29 and the 12?

MS. MOORE: I just noticed that. So that is the landward portion, because it's kind of, there is a little, like a landing area before you get to the water. So.

TRUSTEE GILLOOLY: It's not depicted?

MS. MOORE: Yes. Like the marsh area is a little high, so you are --

MR. BRESSLER: May I inquire, what is the Board looking at?

TRUSTEE GOLDSMITH: It does look like both of them terminate on the bulkhead. So it's just trying to figure out how one side,

the top of the application submitted to 36 feet, but the bottom shows the 29 foot number and then the 12 foot number.

MR. COSTELLO: I don't know what those numbers mean. It's 36 feet. The scale would be 36 feet. That's what's in the words of the application.

TRUSTEE PEEPLES: All right, so we should ignore the other numbers. So 36 is correct?

MR. COSTELLO: 36 is correct. 3x36.

TRUSTEE GOLDSMITH: And roughly, Mr. Costello, what is the length between the pilings there? So the end. And what's that?

MR. COSTELLO: Ten.

TRUSTEE GOLDSMITH: Thank you.

MR. COSTELLO: Those other numbers are the length of the property line. So this is well within the property line. That is - the computer generated those numbers.

TRUSTEE PEEPLES: Okay.

MR. COSTELLO: So those are surveyor lines.

TRUSTEE PEEPLES: Got it. Okay, thank you, for your patience with all that and for explaining what was going on with the dimensions here. That was part of the question.

Obviously there are, there is precedence set in this area for docks. The homeowner does own this underwater parcel of land. And it is in a very inconvenient portion where it is concave within this kind of mooring area.

So with all that said, you know, we do want to reduce the hazards to navigation here, and in doing so feel that the dock length should be dialed back in order to not create any tighter issues there.

So with all of that said, I would like to see if there is anyone else who wishes to speak in regard to this application?

MS. MOORE: Can you just give us an idea of what you are suggesting is a dial back? Because he's the expert.

TRUSTEE SEPENOSKI: She'll make a motion.

MS. MOORE: Well, would it be helpful if we could have a discussion.

TRUSTEE SEPENOSKI: We waited for deliberations between the two parties to come to an agreement that would have made this much simpler. And the parties failed to reach an agreement and we are in a tight situation now. So the motion will be made on the record.

TRUSTEE KRUPSKI: Just close it.

TRUSTEE PEEPLES: At this point we've had a lot of discussions. So I make a motion to close this hearing.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL YES).

TRUSTEE PEEPLES: I make a motion to approve this application with the new plans depicting a dock length of 27'x3' wide, and also with the plans depicting the four-foot access path that is requested in the project description, and thereby granting a permit thereby bringing it into consistency with the LWRP.

That is my motion.

TRUSTEE SEPENOSKI: Second.
TRUSTEE GOLDSMITH: All in favor?
(ALL AYES).
MS. MOORE: Thank you.
TRUSTEE PEEPLES: Thank you.

TRUSTEE GOLDSMITH: Number 14, **AS PER REVISED PROJECT DESCRIPTION RECEIVED ON 8/9/23** Cole Environmental Consulting on behalf of **DONALD & GLENNA RYAN** requests a Wetland Permit to remove existing concrete patio and in same location construct a proposed 4' wide access ramp to ground off of the landward end of a 4'x57' fixed catwalk using Thru-Flow decking leading to a 3'x14' aluminum ramp and a 6'x20' floating dock secured in an "L" configuration and secured with two (2) 8" diameter pilings on either end, with one (1) 4"x4" piling installed landward of the concrete bulkhead for the catwalk; install water and electric to the catwalk; and to establish and perpetually maintain a 10' wide non-turf buffer along the landward edge of the bulkhead.

Located: 760 Oak Avenue, Southold. SCTM# 1000-77-1-3

The Trustees conducted a field inspection June 7th, 2023. Notes say include previously permitted ten-foot non-turf buffer. Redraw pier line to immediately adjacent dock.

The LWRP found this to be inconsistent. The inconsistency is Goose Creek is a New York State DEC Critical Environmental Area; cumulative impact of higher dock density; water quality, wildlife, submerged vegetation, recreation, commercial fisheries, have not been addressed.

The Conservation Advisory Council supports the application and recommends the proposed structure move closer to the concrete steps to the west, and to retain the oak trees on the property line. We do have new plans stamped received June 9th, 2023.

Is there anyone here wishing to speak regarding this application?

MS. RUMMEL: Kate Rummel, on behalf of the applicant.

You have updated plans to incorporate the new pier line to have the buffer from the previous permit, removing the concrete patio. The pier has been drawn to keep the tree as is. So we are not disturbing the tree. We will be adding a 4x4 just seaward of the concrete bulkhead, just for added support, but otherwise we have avoided putting pilings near the tree roots to disturb the existing tree.

TRUSTEE GOLDSMITH: Thank you. Is there anyone else here wishing to speak regarding this application?

(Negative response).

Any questions or comments from the Board?

(No response).

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

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

I make a motion to approve this application noting that the dock will be constructed with through-flow decking and it is within the pier line, which should address the LWRP's concerns and thereby bringing it into consistency. That is my motion.

TRUSTEE SEPENOSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: We'll take a five-minute recess.

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

TRUSTEE GOLDSMITH: Okay, back on the record.

TRUSTEE KRUPSKI: Number 15, Cole Environmental Services on behalf of **67 SOUND CHESHIRE LP** requests a Wetland Permit to construct a 12'x35' gravel driveway and walk leading to a 29.6'x27' two story dwelling with a 5'x9.5' covered entrance; a/c units to be installed on western side of dwelling; install a 7'x13' plunge pool with pool equipment area surrounded by 4'x16' sound deadening enclosure, and install a pool drywell; install ±123 linear feet of pool enclosure fencing with gates; install 8'x2' deep drywells to contain roof runoff; connect dwelling to underground water and sewer lines; and to establish and perpetually maintain a 30' wide by 122' long vegetated non-turf buffer area along the north property line, and a 15' wide by 94' long vegetated non-turf buffer along the east property line; all trees to be removed will be replaced 1:1 with a native species. Located: 520 Madison Avenue, Greenport. SCTM# 1000-42-1-1

The LWRP found this to be consistent.

The Conservation Advisory Council resolved to support the application, however there is concern with the stability of the fence on the -- this is the wrong file. My apologies.

As stated, the LWRP found this to be consistent. Note the limits of clearing line and potential loss of trees, soil is expected to be poorly drained, seasonal high groundwater is expected, no further expansion or reduction in the setback to the pool should be conditioned.

The Conservation Advisory Council resolved to support this application.

The Trustees most recently visited the property on the 7th of June, noted that the house should be pulled back to maximize distance from the wetland. 95 feet should be possible.

Additionally in work session we discussed pulling the house and pool back 15 feet and stipulating some additional vegetated buffering.

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

MR. RUMMEL: Kate Rummel, on behalf of the applicant.

I just want to note that since the onset of this project that discussion has been on how to develop without destroying, right? I think that has been a major theme, especially on the North Fork. And as per the comments of the pre-inspection meeting, our original

proposal was for the house to be 75-feet back. The Board requested that we pull the house at least 80 feet back, which we have done.

At the most recent inspection, the Board requested that we investigate ways to move further from the wetlands. We have confirmed that the adjacent property is 300 feet from the subject parcel, do not come into play. They are Village of Greenport parcels. But the varying setbacks that are 15 to 40 feet, if you were to take the average of those it would be a negligible number of feet from what we are currently proposing.

I also think that there has been emphasis on the distance and not a focus so much on the fact that we are not proposing a non-turf buffer, we are not proposing a non-disturbance buffer, but ecological restoration.

So we have knotweed on the property, mile-a-minutes, privet, burning bush, and the list goes on and on. And so we'll be removing those plants, and plantings native trees, native grasses, et cetera, which would benefit not only the wetlands but obviously the Town as a whole.

So I think this plan as it comes to you is more than what the Board would often require, but also what the Board is generally presented.

So I think it's a very acceptable application, and I don't think that it's appropriate to put an undo burden on the client for a negligible number of feet additional.

TRUSTEE KRUPSKI: Thank you. Is there anyone else here that wishes to speak regarding this application?

Or any additional comments from the Members of the Board?

TRUSTEE GILLOOLY: Given the precedent of this street and how close most of the houses are on this street to the road, it does seem feasible to maximize the setback from the wetland, even if that would require visiting the ZBA. And I do think environmentally speaking that would be appropriate in this case.

MS. RUMMEL: So there are, the house directly adjacent is 15 feet. But then you have 40 feet, 35 feet, and I believe 20 feet. So if you were to take the average, it's like 27-and-a-half feet and we are asking for, I mean it's just a few more feet from that.

So it's really negligible. I understand, obviously we are on the same page in terms of protecting the wetlands, but I think there is a real focus on distance and not the restoration plan that has been offered, which is really the buffer between the developments and really the wetlands, which are, they are not thriving. They are invasive species. It's not like this pristine parcel.

The parcel itself as been developed for at least two decades and has been disturbed, up to recently it was just used as outdoor storage.

So I understand your concern, I just think that we are not adding more benefit. We are just adding more time and more cost on to the client.

TRUSTEE GILLOOLY: I just believe that when we pull a house and a structure like that farther from the wetlands, it's not just about this one applicant, it's about down the road how this continues to be used. And though we are putting in non-disturbance or non-turf buffers, will they always be honored, will decks wish to be increased? How will future Boards look at this, all of that becomes more of a question the closer we put to initial structure to the wetlands. So this conversation sort of continues throughout the years.

MS. RUMMEL: I completely understand, but are we not setting a precedent for allowing this development when we are giving something that is so ecologically beneficial?

TRUSTEE GILLOOLY: Sorry, can you say that again.

MS. RUMMEL: Are you not setting a precedent for allowing this development when we are offering something so ecologically beneficial. Because if we were to just say this is just a non-disturbance buffer, that parcel would just turn into invasive species. They would just spread like wildfire.

So we are offering to remove those, especially in the area directly adjacent to the wetlands, and to plant the native species. So you are getting something that is so much more than, one, that you generally require, but I think that's at or a better benefit to the Board, at least in recent memory.

TRUSTEE GILLOOLY: We generally appreciate everything you are doing to mitigate the invasive species on this property and to do your best to mitigate what you are asking for from us, which is closer distance to the wetlands. So that is appreciated, absolutely. I don't want to take that away from you.

TRUSTEE KRUPSKI: Are there any additional comments from Members of the Board?

(No response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE KRUPSKI: I make a motion to approve this application subject to new plans depicting pulling the house back ten feet; pulling the pool back ten feet away from the wetland; minimum of 15-foot non-disturbance buffer to be remediated one time to the invasives; with a split-rail fence dividing non-disturbance from the rest of the property; a minimum of 15-foot non-turf vegetate the buffer with native species; and one-for-one native hardwood tree replacement for any trees removed during construction, and new plans to show this. That is my motion.

TRUSTEE GOLDSMITH: Second. All in favor?

(ALL AYES).

MS. RUMMEL: Can I get clarification, the 15-foot non-disturbance buffer, where are you looking for that to be?

TRUSTEE KRUPSKI: From the wetland line.

MS. RUMMEL: Wetland line landward.

TRUSTEE KRUPSKI: Right.

MS. RUMMEL: And then landward of that non-turf.

TRUSTEE KRUPSKI: Yes. And those are vegetated non-turf. And you guys already have the restoration set there, so I don't think it's much of a difference, just going forward to kind of lock it in there, so if there is a new owner it would be there in perpetuity.

TRUSTEE PEEPLES: And then the split rail is between the two, correct?

TRUSTEE KRUPSKI: Right.

TRUSTEE SEPENOSKI: Number 16, Cole Environmental Services on behalf of **CHRISTOPHER & ELIZABETH AUSTIN** requests a Wetland Permit to replace existing wood bulkhead with a 120 linear foot long navy style vinyl bulkhead and to raised 18" higher than existing; install a 30' long return along the west property line and a 20' long return along the east property line; backfill area landward of bulkhead with ±75 cubic yards of clean fill from an upland source; install 4' wide steps off bulkhead to beach; remove existing dock and construct a proposed 4'x12' ramp using Thru-Flow decking installed landward of new bulkhead to a 4'x91' catwalk using Thru-Flow decking to a 3'x20' aluminum ramp and a 6'x20' floating dock situated in an "L" configuration with three (3) 10" diameter pilings installed to secure the floating dock; install two (2) 10" tie-off piles 12' east of float; install water and electric onto the dock; install silt fencing and turbidity curtain between marsh and bulkhead during construction; in areas of marsh, bulkhead construction to be done from land; plant *Spartina alterniflora* plugs in front of bulkhead after construction; and any tree removed to be replaced with a native species 1 to 1 ratio; and as per Wetland Permit #10315, to establish and perpetually maintain a 10' wide by 50' long non-turf buffer along western property line, a 10' wide by 65' long non-turf buffer along the eastern property line, and a 20' wide non-turf buffer along the landward edge of the bulkhead.

Located: 2200 Deep Hole Drive, Mattituck. SCTM# 1000-123-4-5.1

The Trustees recently visited the site on 6/7/23. Notes from that visit read: Pier line needs to be corrected. Amount of fill questioned. And tie-off pile cannot be seaward of float.

The LWRP found the project to be inconsistent with its policies. The notes explain that the inconsistency reads: Verify that all permit conditions have been met. The lengthening of the dock in public trust waters is inconsistent with Policies 6 and 9. The applicant enjoys access to public trust water through an existing dock recently rebuilt.

The Conservation Advisory Council resolved to support the application with through-flow decking, non-turf buffer planted with native vegetation and the existing *Spartina* to be maintained, and exterior lighting is Dark Sky compliant. Dark Sky compliant lighting is part of Town Code.

We have plans received June 9th, 2023. I welcome public comment.

MS. RUMMEL: Kate Rummel, on behalf of the applicant. And I just

want to ensure that you have the plans that have the adjusted pier line and then and the updated -- okay.

TRUSTEE SEPENOSKI: Yes, we do.

MS. RUMMEL: Okay.

TRUSTEE SEPENOSKI: And we discussed that in the field as well with your applicant. He clarified that for us.

MS. RUMMEL: So, I mean we are within the pier line, within the setbacks. Obviously now the new proposed catwalk will be avoiding basically marsh. We'll be protecting the existing marsh with turbidity curtains and silt fencing and where we are replacing the bulkhead where there is existing marsh that will be accessed landward and not by barge.

We also have DEC approval for the new dock and for the bulkhead.

TRUSTEE SEPENOSKI: Thank you, for clarifying those requests of the LWRP.

We in the field noticed that corner where the current dock exists is a thriving salt marsh, and removing it seems to me to be a net benefit. Relocating the dock where it's proposed doesn't threaten any native vegetation at the moment. And restoration of the area with native species like *Spartina* will benefit of the ecosystem.

One question that came up during our work session was the ten-foot buffer depicted on the plans that you provided us.

MS. RUMMEL: Yes. The buffer that will be installed will be based on the previous.

TRUSTEE SEPENOSKI: That's what I suspected. I think we talked about a measurement of 20 feet.

MS. RUMMEL: Yes, I believe that with respect to the side yards.

TRUSTEE SEPENOSKI: Okay, any other comments from the public or questions or comments from the Trustees?

TRUSTEE PEEPLES: I have a question about the previous permit, included maintaining the cedar trees that are in the center of the yard there.

MS. RUMMEL: If possible we are going to try to maintain them. The contractor thinks that he can possibly maintain all of them, but not completely sure because the one especially is very close to the edge of the bulkhead. But if not they will be replaced with one-to-one native hardwood.

TRUSTEE PEEPLES: What is the exact reason they would not be able to be preserved? Due to the --

MS. RUMMEL: Well, the one specifically is I think on the cusp of having the root ball damaged and it not surviving.

MR. AUSTIN: Christopher Austin, I own the property. So I did have a tree company come out and talk about digging them out, burlapping them, moving them and setting them back in. Unfortunately, it's not possible, just given the size of them, they wouldn't be done. The same reason for them, the one or two that might have to go is that when the excavation happens they may just naturally slide when the roots are cut to do the bulkheading. We are going to do everything we

can. Like I said, we are trying to keep them. We know the previous permit, and that permit by the way would be non-vegetated buffer is referenced, I believe, in the scope of work for the previous.

TRUSTEE PEEPLES: The 20 foot.

MR. AUSTIN: Whichever, yes, with the landscape plan that was previously approved.

TRUSTEE PEEPLES: Thank you, for doing the research to try to save the trees, because that is something that is important.

TRUSTEE GILLOOLY: Quick question regarding the fill. Can you specify how much fill is going to be used and how you intend to use it?

MR. AUSTIN: Basically you have the updated ones. The 150 cubic yards. It's just to level set the property. I think if you take 150 cubic yards and spread it out over 120 feet across and 50 feet deep, it's just going to create three or four inches of added soil. So it's just to take kind of the waviness out of the property.

TRUSTEE KRUPSKI: Just one detail, you said replacement with native hardwood, which is great. But because they are eastern red cedar, seems the most appropriate things with native vegetation, if you are to replace them, ideally the one further back you probably can save, I would think. And you definitely can move them. It would just be like ten grand. I mean it can, that can be done. No problem. And I'm not saying you should --

MR. AUSTIN: The guy that came out, his truck, his equipment, from Shamrock wouldn't be big enough. I would have to bring in -- it's economically --

TRUSTEE KRUPSKI: A pay loader.

MR. AUSTIN: Yes. We are going to do all we can, but --

TRUSTEE SEPENOSKI: We talked about the trees, talked about the dock, talked about the marsh. And we were the subject of the fill. One of the concerns about this location is just the neighboring properties. And by bringing in fill to such an extent, you do increase the likelihood that water will shed off on to your neighbor's property in storm events. And I as one Trustee would be okay with fill within say 30 feet from bulkhead, so it includes your non-turf buffer of 20 feet and then an additional ten feet to taper off so you would not have such an angled decline.

MR. AUSTIN: I think that's the plan with the fill. I mean, and the neighboring properties are both up, probably eight to ten inches higher. The property that I have is a low spot and it ponds quite a bit. Even in heavy rains. I think with the non-turf buffers that were previously permitted in the landscape plan, even the fill coming to level behind, the buffers are going to, it will contain everything still on my property.

TRUSTEE PEEPLES: I think one of the concerns we are just trying to address with the fill question is while we understand the desire to raise the height of the bulkhead and, you know, the various reasons with that, that doesn't mean that we then want to see the property increase up to that 18-inch high. And that's why the vegetated buffer along that boundary doesn't necessarily then have to be raised up 18 inches. You can add the fill and what is necessary to have that vegetated buffer be successful, but that is I think with

where we are going, is that we don't see the need to then raise the height of the property 18-inches as well.

MR. AUSTIN: Yes, I absolutely understand. I mean, we would need probably 1,000 cubic-yards of fill to raise it 18 inches, 120'x50'. Probably more than that.

TRUSTEE PEEPLES: I don't know what the math works you to.

MR. AUSTIN: I didn't need my fill calculator that time. But it would be way more than 150.

TRUSTEE PEEPLES: It sounds like I need that app. The broad strokes are not to raise the entire property. You can only take the bulkhead up to the 18 inches.

MR. AUSTIN: Correct.

TRUSTEE GILLOOLY: And the reason why we are continuing this conversation, is it relates back to the original conversation we had at the original permitting, which was not to raise the entire property.

MR. AUSTIN: Understood.

TRUSTEE GILLOOLY: It's just going back to that, as well. The bulkhead then can't be used as a retaining wall to bring up the property.

MR. AUSTIN: Understood. Absolutely. And just to clarify one more thing. The bulkhead is coming to an elevation of 4.6. The elevation of the yard is at four. So there is a low point in the yard that is at four. So I'm not quite sure with the previous house raising in 2018 or 2019, after Hurricane Sandy hit it, they didn't level-set the property after that, but based on the FEMA flood zones and elevations per the surveys provided, it's at four to six feet on the property as is. And the bulkhead is coming to 4.6. So that would be a big slope for anything like that. Just a clarification.

TRUSTEE SEPENOSKI: Thank you. All right, any other comments or questions from the Board?

(No response).

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

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE SEPENOSKI: I make a motion to approve the application of Christopher and Elizabeth Austin, with the following conditions: That there is a two-to-one tree replacement with native tree species in the event that cedars are killed in the process of reconstructing the bulkhead; that the fill brought in be limited to an area 30-feet from the new bulkhead; and that the LWRP concerns will be addressed.

MS. HULSE: Can I just interject on that. The LWRP mentioned a dock that was recently re-built. Is that accurate?

MS. RUMMEL: No, that is not accurate.

MR. AUSTIN: I think we have all been out to the site enough

MS. HULSE: Okay, thank you.

TRUSTEE SEPENOSKI: Addressing the portion of the LWRP concerns that have to do with the dock's infringement on public trust waters. By moving that dock we are having a net benefit. And new plans stamped received -- excuse me. New plans depicting

the conditions as I just mentioned submitted to our office for review. That is my motion.

TRUSTEE PEEPLES: Second.

MR. AUSTIN: It's in the scope of work.

(Board perusing documents).

TRUSTEE SEPENOSKI: Okay. So I'll rescind the motion.

TRUSTEE GOLDSMITH: Second. All in favor?

(ALL AYES).

MR. AUSTIN: It's in there.

MS. RUMMEL: The project description does reference the previous permit.

TRUSTEE SEPENOSKI: Okay, it's just the --

TRUSTEE KRUPSKI: The hearing is closed, so you can't --

MS. RUMMEL: Sorry.

TRUSTEE KRUPSKI: No, that's okay.

TRUSTEE SEPENOSKI: I make a motion to close the hearing. That's already been done. I'll make a motion to approve the application of Christopher and Elizabeth Austin with a conditions of two-to-one tree replacement for the cedars that may be damaged or killed in the reconstruction of the bulkhead. Fill to be brought in will not exceed the 30-foot from the new bulkhead, and new plans depicting the 20-foot buffer, non-turf buffer, that was previously conditioned on the property, thereby bringing this project into consistency with the LWRP.

TRUSTEE KRUPSKI: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

TRUSTEE GOLDSMITH: Motion for adjournment.

TRUSTEE PEEPLES: Second.

TRUSTEE GOLDSMITH: All in favor?

(ALL AYES).

(The time noted is 8:22 pm).

Respectfully submitted by,

Glenn Goldsmith, President
Board of Trustees