

BOARD OF TOWN TRUSTEES

TOWN OF SOUTHOLD

Minutes

Wednesday, February 18, 2009

6:00 PM

Present Were: James King, President  
Jill Doherty, Vice-President  
Peggy Dickerson, Trustee  
Dave Bergen, Trustee  
Robert Ghosio, Trustee  
Lauren Standish, Secretarial Assistant

CALL MEETING TO ORDER  
PLEDGE OF ALLEGIANCE

NEXT FIELD INSPECTION: Wednesday, March 4, 2009, at 8:00 AM  
NEXT TRUSTEE MEETING: Wednesday, March 18, 2009, at 6:00 PM  
WORKSESSION: 5:30 PM

APPROVE MINUTES: Approve Minutes of January 21, 2009

TRUSTEE KING: Good evening, everyone, my name is Jim King. I'm the chairman of this Board. I have the honor of being the chairman. And I would like to introduce the rest of the folks that are here. To my far left is Trustee Dave Bergen; Trustee Peggy Dickerson, and we have Jill Doherty is the vice chair; myself; Lauren Standish is our secretary, she runs the office for us, and; Bob Ghosio is the next Trustee. We have Wayne Galante down here keeping track of what everybody says. So if you do have comments, please come up to the microphone, identify yourself so he can get it on the record. And we have Peter Young from the CAC, which is the Conservation Advisory Council. They go out and do many of the same inspections we do and give us their input on what we should do with the applications.

With that, I guess we'll get going, move things along. Do you want to set the date for the next field inspection, March 4, eight o'clock in the morning?

TRUSTEE DICKERSON: Motion to approve.

TRUSTEE KING: Second?

TRUSTEE DOHERTY: Second.

TRUSTEE KING: Next meeting, March 18, at six o'clock, with the work session at 5:30.

TRUSTEE DOHERTY: So moved.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: I didn't have a chance to read the minutes of January 21 yet. If anybody else did, do you want to make a motion, anybody?

TRUSTEE DOHERTY: I'll make a motion to approve the minutes of January 21, 2009.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

#### **I. MONTHLY REPORT:**

TRUSTEE KING: The Trustees monthly report for January 2009. A check for \$5,209.55 was forwarded to the Supervisor's office for the General Fund.

#### **II. PUBLIC NOTICES:**

TRUSTEE KING: Public notices are posted on the Town Clerk's bulletin board for review.

#### **III. STATE ENVIRONMENTAL QUALITY REVIEWS:**

TRUSTEE KING: Resolved that the Board of Trustees of the Town of Southold hereby finds that the following applications more fully described in Section VI Public Hearings Section of the Trustee agenda dated Wednesday, February 18, 2009, are classified as Type II Actions pursuant to SEQRA rules and regulations, and are not subject to further review under SEQRA.

We have a number of state environmental quality reviews, they list as follows:

William Hamilton - SCTM#14-2-3.6

Paul & Angela Salermo - SCTM#87-5-6

Peter Schembri - SCTM#15-3-16

Diana Delucia - SCTM#107-4-5

Joseph & Rita Denicolo - SCTM#70-4-6

Gerald Dicunzolo - SCTM#107-7-5

Gardiner's Bay Homeowners Association - SCTM#37-4-17

Peter Cosola - SCTM#7-3-43

Kevin & Alexandra O'Mara - SCTM#72-2-2.2

Sophia Antoniadis & Maria Xefos - SCTM#31-14-7

Cleaves Point Property Owners Association - SCTM#35-6-30

Robert Swing - SCTM#63-6-24

TRUSTEE KING: So moved.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

#### **IV RESOLUTIONS - ADMINISTRATIVE PERMITS:**

TRUSTEE KING: I think we said we can lump one, two, four and five together under Resolutions.

TRUSTEE DOHERTY: Yes.

TRUSTEE KING: Under Resolutions and Administrative Permits, what we try and do, if they are simple and no controversy or anything, we try and lump them together and approve them at once, just to save time from the hearing.

We'll do number one, number two, number four and number five, which are:

Number one, **LORRAINE CONNOLLY** requests an Administrative Permit to remove portions of an existing concrete driveway and bricked area and add a new gravel driveway and a letter of no-jurisdiction to construct a new garage, renovate the existing dwelling by constructing a second-floor addition, construct a porch addition and relocate the house entrance from the front to the side of the house. Located: 3505 Wickham Avenue, Mattituck.

Number two, Joanne Liguori on behalf of **ANNETTE GOLDEN** requests an Administrative Permit to repair inkind a portion of the waterside well of the existing gunite swimming pool. Located: 1445 Bayshore Road, Greenport.

Number four, Michael Hughes on behalf of **THOMAS PULS** requests an Administrative Permit to construct a 17.2'x22.2' extension to the existing garage. Located: 135 Eugene's Road, Cutchogue.

And number five, Amend Administrative Permit #6794A issued to **ALBERT MOYSE** to remove the condition requiring the installation of gutters and drywells. Located: 120 Rabbit Lane, East Marion.

TRUSTEE KING: I'll make a motion to approve those.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Is Glenn Just here?

(No response.)

TRUSTEE DOHERTY: No, he's not. And looking at it, I don't think he has anything else on the agenda. He may not even come.

Do you want to hold off on number three?

TRUSTEE GHOSIO: Why don't we move on it. Our only concern really was where they were going to put the cuttings. We can stipulate something.

TRUSTEE KING: Okay, we can do that.

All right, number three, JMO Environmental Consulting on behalf of **PECONIC LANDING AT SOUTHOLD** requests an Administrative Permit to cut the phragmites to a minimum of 12" in height, remove the phragmites and dispose of them. Located: 1500 Brecknock Road, Greenport.

I think, you're familiar with that, Bob. It's not a problem. We just had a question of where they are going to dispose of the phragmites.

TRUSTEE GHOSIO: In general we like to eliminate invasive species. In the case of phragmites, you are allowed to cut them down to 12" in height with a permit. This is two acres worth. As I understand, they'll be doing it by hand. Our only concern is where they are going to put the cuttings.

TRUSTEE DICKERSON: That's a lot of debris, yes.

TRUSTEE GHOSIO: Yes, it's a lot of debris. And there was nothing said where they were going to put it.

TRUSTEE KING: We can approve it subject to them telling us where they'll dispose of it.

TRUSTEE DOHERTY: Sounds fine.

TRUSTEE KING: I'll make the motion we approve this with the stipulation they show us an approved site for disposal.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: Jim, did you want to do postponements?

TRUSTEE KING: Yes, thank you. Sorry. We have some postponements tonight. I don't want to have anybody sitting here all night thinking something is going to come up and we don't address it.

On page three of your agenda, number four under Coastal Erosion Wetland Permits, MBB Architects on behalf of **MARY BURNHAM** requests a Wetland Permit and Coastal Erosion Permit to construct a two-story addition to the existing dwelling, new deck and new one-story fully detached garage. Located: Peninsula Road, Fishers Island, has been postponed.

And number five, JMO Environmental Consulting on behalf of **DAVID WILMERDING** requests a Wetland Permit & Coastal Erosion Permit to construct a 5x46' fixed dock over an existing concrete dilapidated ramp onto an existing fixed dock and repair as necessary portions of the existing fixed dock. Located: Private Road, off of Equestrian Avenue, Fishers Island, has been postponed.

Under Wetland Permits, number five, Suffolk Environmental Consulting on behalf of **ROBERT SWING** requests a Wetland Permit to construct an addition to the landward side of the existing dwelling containing 627 square feet, removal of the existing septic system and replace within an updated sanitary system within the front yard, installation of a retaining wall (surrounding the sanitary system) measuring 118' in length x 1.3' in height, installation of a French drain along the southern side yard property boundary and establishment of a five-foot non-turf buffer along the landward side of the bulkhead; remove and replace the existing floor plates of concrete block on the foundation in order to protect the house from flooding and further structural deterioration of the dwelling; construct a second-story loft/storage containing 580 square feet and retain the southern-most wall housing the existing sunroom and existing chimney. Located: 4295 Bayshore Road, Southold, has been postponed.

Number ten, JMO Environmental Consulting on behalf of **FISHERS ISLAND DEVELOPMENT CORP.**, requests a Wetland Permit to reclaim and repave East End Road which is a private road extending from Oriental Avenue eastwardly approximately 4.5 miles to the east of the island. The plan calls for reclaiming the existing pavement to create a sub base, replacing old culverts with new larger pipes, grading and repaving, with two courses of rap in areas not adjacent to freshwater wetlands and stone trenches and landscaped swales designed to accommodate runoff from a design storm will be installed in areas near wetlands. Areas adjacent to the road disturbed during the grading process will be loamed and seeded. In addition, proposed construction of an eight-foot wide paved or boardwalk path to follow the road alignment for an approximate length of 3.25 miles. Design plans proposed a corridor approximately 12-feet wide be cleared, topsoil removed, processed gravel base installed and a final two-inch pavement course of bituminous concrete. Any disturbed areas will be loamed and seeded. In areas where the path crosses freshwater wetlands, an elevated boardwalk with open grating is proposed. Located: Fishers Island, has been postponed.

Number 11, Catherine Mesiano on behalf of **MILDRED DICARLO** requests a Wetland Permit to replace the existing dock with a low-profile 4x64' fixed dock on 16 eight-inch diameter piles 12-feet on center, 3x15' metal ramp and a 6x20' floating dock affixed to two 10-inch diameter piles and in place replacement of 125 feet of bulkhead and 37' return landward of high-water. Located: 1035 Calves Neck Road, Southold, has been postponed.

Number 12, Catherine Mesiano on behalf of **ROBERT CELIC** requests a Wetland Permit to replace three existing wood jetties 68', 65' and 50' using 10x15' wood piles at six-feet on center and C-Loc vinyl sheathing or equivalent. Located: 910 Park Avenue Extension, Mattituck, has been postponed.

Number 13, Patricia Moore on behalf of **GRACE BURR HAWKINS** requests a Wetland Permit to construct a single-family dwelling and sanitary system. Located: Private Road, Fishers Island, has been postponed.

And number 14, **MARY R. RAYNOR** requests a Wetland Permit to replace the existing wood bulkhead and wood retaining wall as exists, utilizing PVC bulkheading. Located: 575 Beachwood Road, Cutchogue, has been postponed.

We won't be addressing those tonight.

#### **V. APPLICATIONS FOR EXTENSIONS/TRANSFERS/AMENDMENTS:**

TRUSTEE BERGEN: Number one, **PAUL & ANGELA SALERNO** request an Amendment to Permit #6939 to replace the existing 6x10' floating dock with a 6x20' floating dock, and to replace two pilings at the end of the floating dock. Located: 700 Koke Drive, Southold.

We did go out and look at this just. For the record, it was reviewed under the LWRP and found to be consistent. I don't see any recommendations there. And then the CAC looked at it and supports the application with the conditions appropriate materials are used; in other words, non-treated lumber. Like I said, we did go out and look at this.

Is there anybody here with this application? Sir, if you could just step up to the microphone for a second.

MR. SALERNO: My name is Paul Salerno.

TRUSTEE BERGEN: Thank you. We did go out and look at this, and the only challenge that we had with this, this is a situation where the property line, you could see the stake there that marks the property line, and if you go out, straight out, probably right now the way we looked at it, almost the end of the current flow that is across the property line, so we were concerned if we were to approve this as applied for, this would go out further and it would definitely be over the property line.

What we were going to suggest, instead, was if this can be an "L" so that what you are applying for with the correct float would go in this direction; in other words, towards, I believe the west/northwest. That way the "L" extends in front of your property and does not infringe upon the adjoining property owner's area.

MR. SALERNO: I believe when I applied for the initial application, the adjoining property owner, if I'm correct, already authorized me to make improvements and changes to the dock. And there are four owners of that property and they already sort of blessed it already. So if we need something from the property owners, I can get that, but I think we have it already in the file.

TRUSTEE BERGEN: The challenge we have with that, and that's not unusual for people to come in with something like that, is what happens in the future, if and when the properties are sold. And it could run into some title issues and just if we do this it makes it very clean and doesn't, would not result in any potential problems for the future, and it would still give you, and again, we have not heard your opinion of this, but in our opinion it would give you what you want. The extension is just then directly in front of your property.

MR. SALERNO: Honestly, I didn't give it any thought until you brought it up today. I just think when the water is coming in, the current is coming this way, and basically what will happen theoretically here the boat comes in, it is just going to be banging into the dock.

And that's why we have it -- everyone's is like this.

TRUSTEE BERGEN: What I'm thinking is probably --

MR. SALERNO: If my son could just --

MR. SALERNO, JR.: My name is Paul Salerno, Jr. I do understand your idea here. I think one of the problems that we may have is if you turn it to the right, it would be six feet going out from the catwalk; is that correct? 6x20?

TRUSTEE BERGEN: Yes, it's a 6x20 float.

MR. SALERNO, JR.: The ramp might go out at the end of the six feet at high tide.

MR. SALERNO: And also you probably have shorter space from the docking standpoint. Now do you go below the two-and-a-half, three inch, at the three foot spot there? So. If you bring it in you'll be closer to the shoreline, from a water level standpoint. That's a good point. I didn't think about that.

TRUSTEE DOHERTY: We may have to change the length of the ramp.

TRUSTEE BERGEN: That's what I'm looking for.

TRUSTEE DOHERTY: If you have it this way then the ramp will be too long.

MR. SALERNO: Is there something I could get from the neighbor that would satisfy this?

TRUSTEE BERGEN: No, again --

MR. SALERNO: If you look at the line right now, right now if you went straight, it probably lines up with the second piling as it is now already. So it's already, if you are looking, it may be over that already.

TRUSTEE BERGEN: But what we don't want to do is --

MR. SALERNO: Make it worse, I guess.

TRUSTEE BERGEN: Yes. What we are looking for is a survey in here. And I'm not finding any.

MR. SALERNO: There is one. I could give you my survey. I think I have it with me. I do. If I can hand this to you.

TRUSTEE KING: What you wanted to do is basically add ten feet seaward.

MR. SALERNO, JR.: Correct.

TRUSTEE BERGEN: The survey that Mr. Salerno submitted does not reflect water depths.

MR. SALERNO: And there is, in the original application I filed there was something from Sea Level Surveyors.

TRUSTEE KING: Do we have a tax map with that?

TRUSTEE BERGEN: Tax map 87-5-6.

TRUSTEE KING: I'm trying to look at -- we have an aerial of the whole area is what I'm trying to look at. Because that's a cove shape, you may want to address probably how you extend the property line.

MR. SALERNO: Is there a way to just angle the float a little bit to make the same -- I don't build docks.

TRUSTEE KING: It could be done.

TRUSTEE DOHERTY: If he keeps the ramp and the catwalk the same, he would have to change --

TRUSTEE KING: Oh, no, that ramp could be angled more to the right so that --

MR. SALERNO: I guess there is a way to build it so the boats can go like this (indicating.)

TRUSTEE KING: The ramp doesn't have to be perfectly square with the dock. It could be on a 45.

MR. SALERNO: I could do that.

TRUSTEE KING: It brings up the question how do you extend property lines. Because --

TRUSTEE BERGEN: We are looking at an aerial photo that is in the file.

TRUSTEE KING: Because if have you a cove shape like that, supposedly you draw a line from headland to headland, and then the property line is extended out so its perpendicular to the line you've drawn and that changes the angle of that. In other words this would go more parallel with his dock. If you look at it. You are supposed to draw a line here like this. Then you draw, extend that property line out so it meets this at a 90 degree angle. That's to benefit every property owner so some guy that is stuck in the middle doesn't have anything.

TRUSTEE DOHERTY: So if he just angles it --

TRUSTEE KING: I would say it would be fine if you could tip that at a 20 or 30 degree angle.

MR. SALERNO: Then go straight there after.

TRUSTEE BERGEN: Just angle it far enough so definitely it would not go on the neighbor's property.

MR. SALERNO: In other words I would need a pole in the front and pole in the back.

TRUSTEE KING: That would work.

MR. SALERNO: As long as you are okay with it, I'm okay with it. I don't know if the guy who knows how to build it.

TRUSTEE KING: Would that be a problem, Mr. Costello? I seen other docks where the ramp comes down on an angle.

MR. COSTELLO: No, not a problem.

MR. SALERNO: So you'll give me your card on the way out?

TRUSTEE KING: I think that would be a solution.

TRUSTEE BERGEN: Yes. Okay, are there any other comments from the Board on this?

TRUSTEE DOHERTY: We just need new drawings beforehand.

TRUSTEE BERGEN: Correct. What I would like to do then is make a motion to approve the application of Paul and Angela Salerno as depicted at 700 Koke Drive with the condition the floating dock will be angled slightly toward the north, as I look at this survey, so that it doesn't --

MR. SALERNO: North is correct.

TRUSTEE BERGEN: So none of the structure goes over the extension of the property line of the neighbors and it would be subject so, to new plans being submitted that depict that first.

MR. SALERNO: Sure, subject to that.

TRUSTEE KING: And two eight-inch piles holding the float in place.

TRUSTEE BERGEN: And on the survey I'm looking at, it shows two piles, so we would have two eight-inch piles to hold the float in place as shown on the survey of property dated July 14, 2008.

MR. SALERNO, JR.: Similar to what we have here in the picture.

TRUSTEE BERGEN: Correct. And this was consistent under the LWRP.

MR. SALERNO: And it would be a new pile in the front and back.

TRUSTEE BERGEN: Correct. So to hold the float in place, yes. So I make that motion.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. SALERNO: And I would just submit that to the office?

TRUSTEE BERGEN: Yes, submit the new plans to the office.

TRUSTEE KING: Just to make a point, these are not public hearings. These are applications for amendments. But anybody, if you have a comment to make, please help yourself. Come up and make a comment about them. But these are not public hearings.

TRUSTEE DICKERSON: Number two, Costello Marine Contracting on behalf of **PETER COSOLA** requests an Amendment to Permit #5909 to install four two-pile mooring dolphins at the offshore end of the existing dock. Located: 2880 Minnehaha Boulevard, Southold.

The LWRP has reviewed this as inconsistent, and actually the review reflects the concern of the entire Trustee Board. The proposed action of four two-pile mooring dolphins may cause the following impacts: Impair navigation of the body water, interfere with the public use of the waterway and bottom land, impairs views and watersheds important to the community and establishes a precedent contributing to the cumulative impacts caused by similar docking structures.

The entire Board, when we looked at this, there is a desire to, for an alternative, and Mr. Costello, did you have a chance to speak to your client?

MR. COSTELLO: My name is John Costello and I'm familiar with the job and I have discussed it with the client after a brief conversation with Jill saying that the Board did have some difficulties, and I told him that other alternatives to secure the boat at that dock would be, as Joe suggested, the tide whips would be helpful, and I suggested to him instead of the four dolphin pilings, if he put one single piling. He's purchasing a larger boat. If he could get approval from the Board to put one single piling eight-inch diameter, approximately 12 foot, right off the end of the dock, with the tide whips, he would have no problem securing any boat whatsoever at the dock. He says, well, you know more about boating than I do and I'll see what we could do.

TRUSTEE DICKERSON: Jim, that was your comment?

TRUSTEE KING: I didn't have a chance to look at this one.

TRUSTEE DICKERSON: I just want to mention that actually that was the LWRP's recommendation. The following best management practice is recommended as alternative to the proposed action which is the use of a mooring whip as an alternative to pile mooring dolphins.

The CAC supports the application, however recommends an alternative plan of two double dolphins on the same side of the dock. So we have a couple of alternatives here.

TRUSTEE BERGEN: Sounds like the alternative with the least amount of structure is the one the applicant has proposed now. You are asking for one mooring piling.

The do you know whether the applicant wanted that on the north or south side of the dock?

MR. COSTELLO: Directly in line with the dock. The mooring whips would hold the boat on. That would secure the bow line or the stern line. That's all. Where the boat is, is 36 feet overall, and instead of putting the stern in toward the beach, where the prop wash would have more influence, my recommendation for him is to go bow in and have the whips holding it off the float instead of piling holding it off the float, and have the one line out offshore.

TRUSTEE KING: How far seaward from the float?

MR. COSTELLO: 12 feet is more than enough.

TRUSTEE KING: That seems reasonable.

TRUSTEE DOHERTY: What's the channel in that area, how far?

TRUSTEE KING: The stern of the boat is going to be out there anyway.

TRUSTEE BERGEN: It's a near shore channel along there.

TRUSTEE DOHERTY: That's what I was wondering.

TRUSTEE BERGEN: So I think that's fine.

TRUSTEE DICKERSON: Any other comments, Bob?

TRUSTEE GHOSIO: I'm all for it.

TRUSTEE DICKERSON: Okay. I will make a motion to approve Costello Marine Contracting Corp., on behalf of Peter Cosola's request to amend his permit #5909 but to change the request to install a one single pile off the seaward, 12-foot off the seaward end of the dock, eight inches in diameter with a tide whip instead of the pilings.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Which, if I may add, would bring that into consistency see with LWRP.

MR. COSTELLO: You are going to ask for drawings, I hope.

TRUSTEE DICKERSON: With proof of new plans.

TRUSTEE DOHERTY: Do you have them already?

MR. COSTELLO: Yes.

TRUSTEE KING: That was quick.

MR. COSTELLO: I wanted to find out what he was accepting. I still have an eraser.

TRUSTEE DOHERTY: Okay, we can sign them now.

TRUSTEE DOHERTY: Number three, En-Consultants on behalf of **STRONG'S MARINE INC.**, requests an Amendment to Permit #6907 to modify the proposed fuel tank replacement, specifically the replacement of the existing fuel tank and pumps with one double-wall fiberglass tank containing two (2) fuel storage compartments (6,000 gallon gas and 4,000 gallon diesel.) Located: 2402 Camp Mineola Road, Mattituck.

This was approved June of 2008 and it was found exempt at that time from LWRP, and I believe it's really not much of a change in this. It's just to --

TRUSTEE KING: Is it the same location?

TRUSTEE DOHERTY: It's the same location and it's just to come into compliance of what the regulations are for these.

MR. HERMAN: Rob Herman of En-Consultants. Previously, what was approved was actually two separate fuel tanks, and this is one double-wall tank with two compartments. So it's really a diminimus change but we wanted to make sure it was consistent. It's a downsize, if it's anything.

TRUSTEE DOHERTY: Okay, so the difference is these are attached as opposed to --

MR. HERMAN: Correct. They are contained in one unit as opposed to two separate tanks.

TRUSTEE DOHERTY: I thought that was what was approved in the beginning. That's why I was not sure. I would make a motion to approve the amendment to Strong's Marina.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Number four, En-Consultants, on behalf of **STEVEN & SUSAN BLOOM** requests an Amendment to Permit #6785 to eliminate the inkind/inplace replacement of 148 linear feet of existing timber retaining wall in favor of the inkind/inplace replacement of 133 linear feet of existing timber retaining wall and the installation of 35 linear feet of new timber retaining wall to create landward cutout in retaining wall. Located: 7800 Peconic Bay Boulevard, Laurel.

It sounds confusing, but it's very simple. They are just modifying the retaining wall to have a square cut, an inland square cutout. It's just a minor modification. Jill and I looked at this. We didn't have any problem with it. So I'll make a motion to approve.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE GHOSIO: Number five, En-Consultants on behalf of **ROSA HODGSON** requests an Amendment to Permit #6993 to reduce the length of the reconstructed pier by ten feet, from 87' to 77'. Located: 4845 Pine Neck Road, Southold.

This is a dock and bulkhead permit that we issued several months ago. Work has begun. There is a permit from the DEC to reduce it by ten feet. Reductions are always good. So I don't see any problem here at all. Unless there is any other comment, I'll make a motion to approve the reduction as applied for.

TRUSTEE BERGEN: I'll second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll make a motion to go to public hearings.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

**VI. PUBLIC HEARINGS:  
COASTAL EROSION & WETLAND PERMITS:**

TRUSTEE BERGEN: I have the first one. Before we begin with the public hearings, just a reminder, if everybody would please keep your comments to the minimum, or be brief, and five minutes or less if possible. The public hearings are the hearings where there is an opportunity for the public to come up and give comment.

So I have number one, **SOFIA ANTONIADIS & MARIA XEFOS** request a Wetland Permit & Coastal Erosion Permit to replace approximately 200' of bulkhead and 30' return on landward side, an 18x24' deck and steps to the beach, and place toe armor along the southwestern end of the new bulkhead and return. Located: 12500 Main Road, East Marion.

The Board did go out and look at this. It was reviewed under the LWRP and found to be exempt, with certain best management practices recommended. Included in these was the establishment of a 20-foot non-turf vegetative buffer; that the deck on top that is being replaced is to pitch away from the bulkhead and; that we make sure there is pervious material under the deck to allow for any runoff to drain down and not go into the bay and; the use of a silt boom in front of the bulkhead for the work on that during all intertidal operations.

It was reviewed by CAC. CAC supports the application with the condition of the 20-foot non-turf buffer and tropical hardwoods that are proposed must be certified.

Is there anybody here to speak on behalf of this application? If you would like to step up to the microphone.

While you are doing that, I would like to read one letter that came in on February 11. It's from a neighbor. And I'm paraphrasing here. She is confirming receipt of the notification of this. She says I'm deeply concerned with the choice of materials that are planned for the use of this project, specifically treated lumber. Chemically treated lumber used in an area that is consistently subject to aquatic wash and tide fluctuation poses an enormous environmental impact. Furthermore, the chemicals in the aforementioned materials directly threaten our marine and wildlife hereof. Consequently, I hereby express my opposition to this project.

Now, in the proposed work that is listed on the plans that were submitted January 28, it said materials to be treated lumber and vinyl sheathing. So I just want to confirm with the applicant that the replacement of the bulkhead will use vinyl sheathing and not treated lumber.

MS. ANTONIADIS: The treated lumber will be limited to the piles and the whalers.

TRUSTEE BERGEN: Thank you. Now, as you heard, there was suggestions and best management practices from the LWRP coordinator, as well as the CAC, and the Board also is recommending a 20-foot non-turf buffer along the top of the bulkhead. And we wanted to know if this was okay. This is a standard -- non-turf buffers are pretty much a standard requirement when we are doing bulkhead replacements now.

MS. ANTONIADIS: We don't have a problem with the non-turf buffer. I think 20 feet is a bit excessive. We recommended I think a 12-foot buffer on the plans. And it will extend past the deck line.

TRUSTEE BERGEN: Correct. We did note that it would extend past the deck line.

There is -- it's pretty expansive front lawn, and so we felt that a 20-foot buffer was appropriate. But, again, you know, I would be interested in the feelings of the Board on that. If you would like to back it up so it corresponds with the width of the deck, which is 12 foot, or if you would like to stick with the 20 foot.

TRUSTEE KING: If I could see the set of plans. (Perusing.) I'm looking at the row of piles. It's not showing on here. I don't know if the deck is right against those piles or not.

TRUSTEE DICKERSON: You are saying the deck is here.

TRUSTEE KING: I don't know if the deck is right against those piles or not. Is that the back edge of the deck, along those piles?

MS. ANTONIADIS: It's about there. It's 18 feet from the bulkhead inward.

TRUSTEE KING: The non-turf buffer right in line with those piles would be fine.

MS. ANTONIADIS: I think that would look better also.

TRUSTEE KING: That would just kind of extend that line right along there.

MS. ANTONIADIS: I didn't understand, or I didn't hear, something was mentioned about a silt clothe?

TRUSTEE BERGEN: The use of a silt boom during construction just offshore.

MS. ANTONIADIS: Sure.

TRUSTEE BERGEN: Thank you. In the intertidal area here, so when the work is done, particularly at high tide, none of the materials will go down into the bay.

TRUSTEE DICKERSON: Your contractor should be well aware of that.

TRUSTEE BERGEN: Now, we had a couple of other questions. We just wanted to make sure, because you have a couple of sets of stairs to the beach on this property, and you talked about the replacement of a set of stairs. We never want to make assumptions. We are assuming you are talking about these stairs, replacement of these stairs that are adjacent to the deck and not the other set of stairs further down the beach, correct?

MS. ANTONIADIS: Well, we'll be replacing both sets. The whole bulkhead is being replaced.

TRUSTEE BERGEN: Because it just said replacing a set of steps. So we took that as one set of stairs.

MS. ANTONIADIS: That's a clerical error. It's two sets.

TRUSTEE DICKERSON: What's the purpose of two steps, if you could go down to the beach on the deck area?

MS. ANTONIADIS: It's a 200-foot run. You know, that's how it is. I would prefer if we could, you know, replace the existing. I mean you would have to walk 200 feet to get to the steps down.

TRUSTEE BERGEN: It's normal for us to only permit one set of stairs to the beach from a property. Now, understandably, we deal with normal property lengths around 100 feet. Maybe 150. So you are 200. That is a little bit farther. Personally, I don't see a hardship created by one set of steps serving 200 feet of beach but, again, I welcome the comments from other members of the Board.

TRUSTEE KING: A set of stairs in the middle.

TRUSTEE DOHERTY: Well, they have them off the deck. It makes sense to have it off the deck.

TRUSTEE DOHERTY: I don't see the hardship with one set of stairs either.

TRUSTEE BERGEN: We are trying to reduce structure that goes out here.

The other question we had was we noticed down here is there just a couple pilings that are the remainder of what was a structure in the past, and what we would like is when this work is done, for those pilings to be removed, because they are not serving any purpose at all. We would like them removed.

Then we had a question regarding you have several electrical fixtures along the bulkhead that are basically, looks like they are falling apart. One of them was just hanging down. And we wanted to know if the plans were just -- because I don't see them on here

-- if the plans were to just eliminate them. Again, we are just trying to make this clean.

MS. ANTONIADIS: Well, I didn't think that far ahead but I would like to replace them when the new bulkhead is in place, to have lighting.

TRUSTEE BERGEN: Again, what would be the need for lighting off the bulkhead to the beach? It's not something that is normally done.

TRUSTEE DOHERTY: Does it fit into the code where it says about lighting?

TRUSTEE BERGEN: The code mentions lighting on steps and they can only be lit while they are being used and cannot be left on when the applicant is not at the house.

MS. ANTONIADIS: I mean those are not on during the evening. That would be on if you have, want access to the beach in the evening.

TRUSTEE BERGEN: And I understand the need for some lighting for safety reasons, possibly at the top of the steps here. I just don't see the need for flood lights along the bulkhead there, on the beach. People are very concerned about light pollution out here, and I just --

TRUSTEE KING: It makes it difficult for boaters, too.

MS. ANTONIADIS: So you want to limit the lighting to the steps?

TRUSTEE BERGEN: Yes, I think that's appropriate, for safety reasons.

MS. ANTONIADIS: I don't have a problem with that. But I do have a problem with reducing the steps to the beach. I mean I really would like you to allow the two steps to be, you know, it's the same size steps in the same, you know, location. I don't have to use treated wood for the steps. I'll use non-treated wood or some type of tropical wood. But one is, you know, access from the deck which is a whole different area than the east side.

TRUSTEE BERGEN: Again, personally, I think one set of steps is fine for access to this beach, but unless I hear anything different from other Board members.

TRUSTEE DICKERSON: I'll just reiterate what Dave is saying. One of the things we are trying to do is reduce structure and even though, as you say, they have existed before, when applicants come in we try and make improvements where we can. So to have access that you already have and then, you know, say that you need the other is just, we are not seeing the need for it.

MS. ANTONIADIS: But it's already there. It's grandfathered. I'm not asking for an additional set of steps.

TRUSTEE DICKERSON: But you are coming in for an approval for this bulkhead, so.

TRUSTEE DOHERTY: When we were out in the field, Jim had a comment about designing this corner a little different. Jim, if you want to explain.

TRUSTEE KING: My thoughts were instead of having that come to a point like that, just square it off, go in five or six feet and square it off. What's happening, when you get a breeze of wind and the waves there, that's acting like the bow of a boat. It's causing all that erosion there. If they was squared off I think it would be a better way of doing it. It's just my opinion. That's definitely causing a lot of erosion there just because the design of that point. It's a very severe point.

MS. ANTONIADIS: I think that's why we applied for the armor toe for that corner. And the erosion only began when the neighbor removed the wall that was there. I mean I didn't have that much erosion about 15 years ago. It was a wall that was removed and --

TRUSTEE KING: I'm just looking at it from a design standpoint, I think it would be a better way of doing it. That's my recommendation. I would talk it over with your contractor and see what they think.

MS. ANTONIADIS: Well, a professional engineer designed or reviewed everything.

TRUSTEE KING: Did he go out and see that?

MS. ANTONIADIS: He went out.

TRUSTEE KING: It's just an unusual design, in my mind. I seen a lot of bulkhead, a lot of returns.

TRUSTEE DOHERTY: I think what Jim is saying, if you talk it over and if we do approve it this way tonight you could always come back and amend it as well.

Do you have DEC already?

MS. ANTONIADIS: Yes.

TRUSTEE KING: It's just a recommendation on my part to make a better job of it.

TRUSTEE DOHERTY: It's something to think about. You only want to do this once, you know.

TRUSTEE KING: Peggy, can you go back to the beach area there when we looked at it on the beach. When we talked about taking those piles off. This debris, to me, looks like concrete.

MS. ANTONIADIS: That's the old concrete wall that stretched along the East Marion Bay.

TRUSTEE KING: My thoughts were I wonder if we could just pick that up and put it against the bulkhead before you put the rocks in just to clean the beach up and it would give you a little more material in front of the bulkhead.

TRUSTEE BERGEN: It would help armor the bulkhead and possibly get more years out of your bulkhead.

TRUSTEE KING: It would certainly make a nicer beach area. It's not natural by any means.

TRUSTEE BERGEN: It would definitely benefit you, in my opinion.

TRUSTEE KING: Just something to think about.

MS. ANTONIADIS: I don't think I would use -- I could move it, but I don't think we would use that as the armor, because it's deteriorating.

TRUSTEE KING: No, I would use it along with the armor.

TRUSTEE BERGEN: Yes, we are saying in addition to.

TRUSTEE KING: It would just give you a much nicer beach area.

TRUSTEE DOHERTY: Do we even have to put that in the permit?

TRUSTEE KING: No.

TRUSTEE DOHERTY: You can just do it while they are working, have them move the cement.

TRUSTEE DICKERSON: It would be a nicer beach for you.

TRUSTEE DOHERTY: I have one other question. Is the coastal erosion line on the survey?

I know she applied for the coastal erosion permit, but it's not on these.

TRUSTEE BERGEN: No, I don't see it.

TRUSTEE DOHERTY: That's something we usually --

TRUSTEE BERGEN: I don't see the coastal zone erosion line on the survey.

TRUSTEE DOHERTY: It's not on this one either. She applied for coastal erosion, for reviewing it under both. I just didn't know where the coastal erosion line was. And it's not something new, so it is doable under coastal erosion. Should we make her go through the expense of getting the surveyor to put it on the survey or can we somehow just have it drawn on? It should be on.

TRUSTEE BERGEN: Do you understand what we are saying, we should have the coastal erosion line on your survey. And I agree, if we were requiring a whole new set of plans to come in, it could be placed on there, but we are not doing that. So we don't want to make you go through the expense of getting a whole new survey done.

So what we would want to do is then determine, have the applicant determine where the coastal erosion line is, place that on here and then we would, subject to receipt of that and our concurrence with that, could release the permit. Do you understand that?

MS. ANTONIADIS: So in other words I don't have to go to Nathan Taft to have it put on, the surveyor, I could put it on myself.

TRUSTEE BERGEN: I would recommend going to Nathan Taft just to confer with him as to where it is and you can just put it right on here. We'll then check it in our office to make sure we concur with and if we do, that's it.

TRUSTEE DOHERTY: Maybe Nathan can hand draw it.

TRUSTEE BERGEN: Correct. So you don't have to go through the expense of having a whole new survey done.

MS. ANTONIADIS: That sounds fine.

TRUSTEE BERGEN: Was there anybody else in the audience that wanted to comment on this application?

(No response.)

If not, are there any other comments from the Board?

(No response.)

If not, I'll make a motion to close this public hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN; I'll make a motion to approve the application of Sofia Antoniadis and Maria Xefos as described at 12500 Main Road in East Marion, with the following conditions: That it will be, as it states on here, just to confirm, there will be vinyl sheathing used on this bulkhead. So the only treated lumber are the pilings and whalers; that there will be a non-turf buffer, 18 feet of non-turf buffer landward from the bulkhead so it corresponds with the dimension of the deck; that the pilings that are located out on the beach will be removed from this project; that the electrical lights on the bulkhead shining toward the beach will not be replaced with this project, but there will be appropriate lighting on the stairs that meets code; with the wood deck, that there will be a pervious surface under that wood deck so that water drains appropriately so this corresponds with Chapter 236 of the Town Drainage Code. And we are also only approving the one set of wood steps going from the deck down to the beach. So it would be the elimination of the second set of wood steps.

MS. ANTONIADIS: Is there any way I could appeal the steps? Because I really feel the 200-foot span, one set of steps is really, it's not acceptable.

TRUSTEE BERGEN: Well, as you heard, the Board does not agree with that and so the Board, what I heard, was unanimous in they are only approving one set of steps.

So that's a condition.

MS. ANTONIADIS: And the piles, the only two that belong to me are the ones that are freestanding. The others belong to --

TRUSTEE BERGEN: We would only expect the removal of the piles that are yours, and not your neighbor's. And -- thank you, very much -- complying with the best management practice for your contractor to use a silt boom in the intertidal zone area. So I make that motion.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Number two, Proper-T Permit Services on behalf of **CLEAVES POINT PROPERTY OWNERS ASSOCIATION** requests a Coastal Erosion Permit to re-sheath sections totaling up to 32 linear feet maximum, of the landward side of the existing bulkhead using vinyl T&G plank sheathing with filter fabric liner, and backfill with 20 cubic yards of clean sand from an upland source. Located: 345 Osprey Nest Road, Greenport.

We have all looked at this at this prior. This application was actually held up with a violation of clearing. That violation has been taken care of and the trees have been planted that brings it into compliance with the C of C.

This was deemed reviewed consistent with LWRP and the CAC supports the application, however recommends rebuilding the bulkhead a foot deeper than the existing in order to minimize scouring from the boat wakes. Jill, I think you said you and Jim went out and did a final check on this?

TRUSTEE DOHERTY: Yes.

TRUSTEE DICKERSON: This has been sitting. Waiting. Is there anybody who has anything they would like to add?

MR. FITZGERALD: What more can I say?

TRUSTEE DOHERTY: We do have one more question. We noticed, when Jim and I went out there, we noticed another section was starting to fail.

MR. FITZGERALD: Another section where?

TRUSTEE DOHERTY: Right around here (indicating.)

This is the dock. It's right around where the dock was. That first dock.

MR. FITZGERALD: There is a question with Jim McMahon about who is doing what to whom in that area, and where we went through a big thing with him about who owned the bulkhead in the area that we are fixing, and it was decided by him that the association owned the area that we are repairing.

There is still some question about the other part of it. But I'll talk to McMahon about it and if that is the case, what I would ask that you do is approve this, and if it's determined that that is part of our property -- it's on our property, but it may be the Town's bulkhead, we'll put in an amendment.

TRUSTEE DOHERTY: Right. We just wanted to make you aware of it because it was not there the last time we went out. It's something new. And being winter, I didn't know if anybody saw it and was aware of it.

MR. FITZPATRICK: Okay.

TRUSTEE DICKERSON: Is there anyone else here this evening who would like to speak to this application?

(No response.)

If not, I'll make a motion to close the public hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: I'll make a motion to approve the coastal erosion permit to resheath at the Cleaves Point Property Owners and, again, it has been reviewed consistent with LWRP, as stated in the application. Do I have a second?

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: Number three, En-Consultants on behalf of **KEVIN & ALEXANDRA O'MARA** requests a Wetland Permit & Coastal Erosion Permit to construct 226 linear feet

of a double row of quarry stone on a hardcore stone foundation; backfill and revegetate eroded bluff face with native vegetation and reconstruct (inplace with open-grate decking) and extend the existing bluff stairs over the proposed stone. Located: 14345 Oregon Road, Cutchogue.

This came in consistent with LWRP, however he has some notes to stick with best management practices and to ensure that this structure will not cause erosion on any neighboring properties, and also to do some plantings, which you also have here revegetate.

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

MR. HERMAN: Rob Herman from En-Consultants on behalf of the O'Mara's. This is the project, the Board may recall, you had originally approved in the Fall of 2005 as a more substantially engineered rock revetment. After a considerable period of discussions back and forth with the State DEC, the project morphed into what is before you today. You actually approved this exact project last summer, as the original permit had been extended once through the Fall of '08.

The only problem is the work was not commenced and the permittee failed to extend the permit this past fall. So since it's been the Board's practice not to allow an after-the-fact renewal, we had no choice really than to present this all to you again as if it was new, but it's not. We are really just asking you to approve exactly what you approved last July; nothing more, nothing less.

TRUSTEE DOHERTY: Rob, do you have a revegetation plan?

MR. HERMAN: Yes, the plans include specifications for revegetation. It has been a little bit of a moving target because when the project was originally put to all the agencies, whereas this Board acted fairly promptly, the state did not, dragged it out for almost two years, so the bluff deteriorated over that period of time. The bottom half of the stairs fell apart, which is why the stairs are now in the application. But basically whatever part of the bluff is denuded of vegetation by the time the project is implemented, which is now hopefully imminently, it will be replanted with native vegetation including beach grass, Bayberry Rose and Virginia creeper, all of which is all spelled out in the plans. It's fairly typical plantings for Bluff face on Long Island.

TRUSTEE DOHERTY: We don't have a planting plan in this application.

MR. HERMAN: It's on the plan and made part of this application.

TRUSTEE KING: It's really some pretty serious erosion going on in that area, between that and the next door neighbor. Somehow it has to be addressed.

TRUSTEE DOHERTY: You say what you are going to use here. Does the Board want to see more specific plans?

It says bluff face to be replanted with native vegetation including beach grass, Bayberry Rose and Virginia creeper.

TRUSTEE KING: Any thoughts of any type of terracing or anything on there? That bluff looks really bad. I think it needs some serious work.

MR. HERMAN: Again, I think you know how long we went around with this with the DEC. It was originally reviewed by Matt Richards. We had asked for Chuck Hamilton's involvement and eventually the regional director was involved. So I think we have about as much structure here as we are going to get approved.

So I think what I would ask, virtually beg of this Board, is simply approve this again, what you approved in July, and once the toe is stabilized, if they find they are not able to adequately get the bluff face planted, I mean stabilizing the toe should enable them to do that. It's a very, very sandy bluff. It's not one of the other bluffs, kind of bluffs that we look at this area where there is a lot of clay and you have some of those blowouts coming out the face and you really have to terrace up there and you have some good material to hold the terraces. This is very, very sandy and I think we want to try a more traditional approach to stabilize the toe to see if we can get the face planted. And if that's not sufficient we can come back for more structure. But I would really try to avoid adding anymore structure to the plan at this time because that would then set in motion perhaps another who knows how long period of review with the state. It's something we could always come back to you with if they find it's necessary. And if it turns out it's not necessary, well then that would probably please you more. I mean it's obviously in their interest to get this thing permanently stabilized. They had originally tried --

TRUSTEE KING: Did they try plantings before?

MR. HERMAN: They did. And if you look in the pictures, probably with the original file, and I don't know if you have that there. But with the original application, you can actually see the

erosion control mats that were set on this entire face kind of cropping out and tearing apart. I think for this area, and I don't recall why off the top of my head, but the Planning Board was involved for some reason. I guess this might have been part of a subdivision at some time.

TRUSTEE DOHERTY: It was. A C&R is on it.

MR. HERMAN: So the Planning Board had required the quote unquote soft approach to stabilizing the bluff years ago. And the O'Mara's had done that. They had also put in a very extensive drainage plan that was designed specifically not to be pushing drainage out toward the bluff, to slope it back toward the upland.

So this is one of those sites where everything was done theoretically right. It was done in concert with the town, through the Planning Board. At the time you probably didn't have jurisdiction, but everything meets your current setbacks nonetheless, so it's been a bluff problem and it has been a toe up problem from the get go. And that is one of the issues we had had with the state is I think they were sort of, it was following that period of time where there was a lot of bottom down erosion from some of those micro-burst storms you were having, having the sheet flow runoff and it was deteriorating the bluff faces from the top down. But that has not been the case here. If you look at the chronology of photos, the bluff has been denuding from the bottom up very slowly, and it, the situation was in much better control when we started this process than where it ended up. And really through no fault of the applicant.

We just could never get the DEC to cooperate with us. To put it frankly.

TRUSTEE DOHERTY: Thank you.

TRUSTEE KING: I doubt that will change much.

MR. HERMAN: Yeah, I mean it was one of those instances, I told you a long while back, it's funny, we were kind of, really beseeching Chuck Hamilton to come out and try help us because the analyst who looked at this first did not seem to have any sort of conceptual grasp of what was going on. And ultimately, through the issuance of the permit, I think Chuck greed with us as to what was happening. I think he just didn't agree with what we had proposed as the scope of the solution. So that's where this ended up into this more of this Robins Island style, you know, double row of stone that either John or George Costello could probably tell you quite a bit about. So this design was really given to us, imposed on us by the DEC. So we'll see how it works.

TRUSTEE DOHERTY: Okay.

MR. HERMAN: And I think you just approved an adjacent project --

TRUSTEE KING: Access will be from Duck Pond?

MR. HERMAN: Yes. And I think last time you mentioned that there would have to be a bond or something for the road access. It may not be the last time you see this site, but we have to start somewhere and we have to start soon. And we apologize we are here again, because they should have really just extended the permit. But I think because the amendment was issued last summer, I don't think they realized that the original timeframe was still in effect.

TRUSTEE DOHERTY: The CAC supports the application with the condition erosion control devices are installed at the base of the supports of the stairs. I think they are talking about the recommendation they had made a few months back where they kind of put a retaining wall in between the footings underneath the stairs. That's how I describe it.

TRUSTEE KING: Like a 2x10 across, underneath the posts.

TRUSTEE DOHERTY: But you are showing plantings to go under the stairs and--

TRUSTEE KING: If this is going to be open-grate with plantings under it.

TRUSTEE DOHERTY: I mean, try that. There is always the CAC's idea as well you could consider.

MR. HERMAN: And remember, whatever portion of the stairs that is still structurally sound, will remain.

So you may not see open-grate from the toe to the top.

It will just be open-grate over whatever section has to physically be reconstructed.

TRUSTEE DOHERTY: Okay.

MR. HERMAN: Which, again, is more so now than when we started.

TRUSTEE DOHERTY: Are there any other comments?

(No response.)

I'll make a motion to close the public hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll make a motion to approve the application of En-Consultants on behalf of Kevin and Alexandra O'Mara for a Wetland and Coastal Erosion Permit as submitted.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Numbers four and five are postponed. We'll go into the Wetland Permits.

#### **WETLAND PERMITS:**

TRUSTEE KING: Number one, **DIANA DELUCIA** requests a Wetland Permit to construct a 38x8' and 42x10.3' attached wood deck to the existing dwelling, and replace the steps. Located: 4573 Wickham Avenue, Mattituck.

Anyone here to speak on behalf of this application?

(No response.)

TRUSTEE KING: CAC resolved not to support the wetland application. Does not support the application because of the close proximity to the wetlands and the structure seaward of the dwelling should be constructed with non-treated lumber; drywells installed in accordance to Chapter 236.

It's been found inconsistent with the LWRP policy statements because of the distance to the wetlands, approximately 24 feet.

Did everybody see this? This was obviously done without any permits. I don't know what the Board's desire is. I'm inclined not to move forward with this until we get a little better understanding what it is that's going on here.

Ma'am, do you want to make any comments on this application at all?

MS. DELUCIA: My name is Diana Delucia.

TRUSTEE KING: It's my understanding that no building permits were obtained with for any of the work that has been done recently.

MS. DELUCIA: From what we understood it was not necessary. It was all cosmetic. We didn't change the structure or make it any larger or build it any higher. We did change the windows and put siding.

TRUSTEE KING: I think you are going to have to work with the Building Department on this because, I'm not a building expert, but I do know the only time you don't need a building permit is if you replace exactly the same size window. You made pretty dramatic changes here. You have sliding glass doors now in place of windows. I think the Building Department is going to have to, you'll have to work something out with them. And I would really like to see that taken care of before we address the deck.

TRUSTEE DICKERSON: I agree with Jim.

TRUSTEE KING: That would be my recommendation. I would like to table this until we find out what the Building Department wants to do with this before we go through with another addition.

TRUSTEE DICKERSON: I agree.

TRUSTEE BERGEN: I'm not disagreeing with that, but just to, so the applicant can prepare for the next time around appropriately; the CAC voted disapproval of this.

TRUSTEE KING: Yes. Because of its proximity to the wetlands. It's close to the wetlands.

TRUSTEE BERGEN: So if there is an opportunity to pull the deck farther back from the wetlands, it could help you in the next time when you come before this Board. And make sure there is no treated lumber that will be proposed to be used on that deck.

MS. DELUCIA: Can I address that issue now or should I wait?

TRUSTEE KING: And what you should do also, I think you should amend your application to include the new doors and windows and everything so everything is on one page and you fit everything together. But perhaps downsizing the deck would help. Make it a little narrower. Think about it.

MS. DELUCIA: Can I just address that now?

TRUSTEE KING: Sure.

MS. DELUCIA: Because we have gone through the process with the DEC.

TRUSTEE KING: Okay.

MS. DELUCIA: And since you people have been to the site, it's been an area that's basically abused the natural area there. We are not sure why. But there is, there was all the grasses and everything, everything was dead, so there is a tremendous amount of runoff at this time. And the cottage has no gutters. So what we offered, since adding a deck was not going to damage any wildlife at all, because there is just sand and gravel, what we offered to do to kind of mitigate the fact that we were going to create some impervious structure, was that we offered to put

gutters on the entire roof and to put either gutters on the deck, but what they suggested was to install French drains around the perimeter of the deck. So in that sense we would actually be repairing a bad situation and creating less storm runoff than is currently there now.

TRUSTEE DOHERTY: That's a condition we would probably put on anyway.

TRUSTEE KING: That's something we would probably ask for anyway. But you do have a DEC permit.

TRUSTEE DOHERTY: And the Building Department would also tell you if you have to go to the Zoning Board for this deck. You know, the side yard setback, side and front, I don't know what, if they consider that backyard or, you know. So the different setbacks, so you might have to go to Zoning Board as well.

MS. DELUCIA: The house itself is already, I guess by the new standards, is too close to the wetlands.

TRUSTEE KING: It's nonconforming, but it's been there. Yes, we understand that.

MS. DELUCIA: And we are basically asking for a ten-foot deck forward. And as I said, if you have been to the site, or can see the pictures, it's basically gravel and sand.

TRUSTEE DOHERTY: Are you willing to reduce the size of the deck?

MS. DELUCIA: I'm -- yes.

TRUSTEE DOHERTY: Her issues with the Building Department and possibly zoning are a lot more involved than ours. Should we go ahead and move on this and then if she has to come back to us or is it easier to table, then she has to come back to us.

TRUSTEE KING: I think it's easier to table this and address this next month. The Building Department should be able to get this, at least let us know what they want to do. Then maybe we can move forward with this next month. I'm not trying to hold you up, believe me. But I think it would be prudent on our part to just hold this off until next month. Because the Building Department, they just found out, you know. So I'll make a motion to table this.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Thank you.

MS. DELUCIA: Could I just ask a question. I'm curious with the CAC, why would they have an issue against this deck?

TRUSTEE KING: The DEC?

MS. DELUCIA: No, the CAC, I'm curious.

TRUSTEE KING: They feel it's too close to the wetland.

TRUSTEE BERGEN: Mr. Young, maybe you would like to comment?

MR. YOUNG: The perspective that we have is it's intruding and again it relates to the question Dave raised earlier with the steps is to minimize intrusion. So that was the thinking of the CAC.

TRUSTEE KING: Okay?

MS. DELUCIA: Okay  
TRUSTEE KING: Thank you.

TRUSTEE GHOSIO: Number two, **PETER SCHEMBRI** requests a Wetland Permit to construct an 18x18' addition onto the seaward side of the existing dwelling, repair the existing wood steps and deck inkind/inplace, and to install a flagpole. Located: 1425 Soundview Road, Orient.

The Trustees were out there to take a look at this. The CAC does not support the application to construct a seaward extension to the existing dwelling, however would support an application to construct a second-story addition to the dwelling. The CAC recommends the installation of a 20-foot non-turf buffer, a drainage plan in accordance with Chapter 236, non-treated lumber on the stairs and erosion control devices on the bottom of the supports for the stairs. So they do support the application to repair the existing wood steps, deck and to install the flagpole. But they don't support the addition.

LWRP has found that the proposed action is inconsistent with the LWRP in that the proposed remodeling of the existing home will go further seaward of the homes on either side of the subject lot and therefore is not in compliance with 275-11. The distance from the proposed action to the natural protective feature, which is the bluff, is 85 foot. A minimum setback distance is 100 feet. But then finds that the proposed action for replacing the existing wood steps, deck and flagpole would be consistent with LWRP because it -- as long as best management practices are used.

Is there anybody here who would like to speak on this application?

MR. SCHEMBRI: My name is Charlie Schembri, Pete's brother. He's out of town this with week and couldn't attend. But to address the extension, the CAC is recommending a second-floor addition as opposed to a ground level extension?

TRUSTEE GHOSIO: The CAC is suggesting they would support an application for a second-story addition

MR. SCHEMBRI: And it's based on the setback from the bluff area to the back of the house?

TRUSTEE GHOSIO: Well, the CAC --

MR. YOUNG: And the site line. For it to be consistent with the line of the other properties, structures.

TRUSTEE DICKERSON: You can see these posts, he's way out ahead of these two houses.

MR. SCHEMBRI: Is that posts for the extension, Bob?

TRUSTEE DICKERSON: Yes.

TRUSTEE GHOSIO: I have to say, that when I took, what I did is I took the aerial, the aerial pictures of these properties, and I drew a line from the furthest seaward point from the eastern house and from the western house, and when you draw that line, this addition is inside of that line.

TRUSTEE DICKERSON: We are visually seeing a different line.

TRUSTEE BERGEN: I appreciate that. I saw the aerial photo and I appreciate that. But we were out there in person. You can see these pictures. It's clearly forward. And when we were out there in person and stood there you could see the stakes are clearly forward. So I do appreciate the fact. I saw that picture also, Bob, but being there in person and seeing these pictures, it differs from the Google aerial photo. I don't know if it was Google or not, but --

TRUSTEE GHOSIO: It was Google.

TRUSTEE DOHERTY: Why don't we have a surveyor put that line on a survey and see what that comes up with.

TRUSTEE KING: I think some of the houses are on an angle, too. You are taking the most seaward point and drawing a line from the most seaward point, it's deceiving.

TRUSTEE GHOSIO: You can't deny the geometry of a picture and the drawing. The line is the line.

TRUSTEE DOHERTY: That's why we have a surveyor who puts the line on there and it shows what the aerial --

TRUSTEE GHOSIO: I think, frankly, what the issue was for most of everybody who was looking at it, is the code doesn't allow for it to extend further than the line from the two neighbors. Now, if we can show that the two neighboring houses are further seaward than what your addition would be, then I think we are okay.

MR. SCHEMBRI: And a surveyors line would indicate that?

TRUSTEE GHOSIO: Yes, it would. And if the proposed addition is to go further seaward than that line, you may want to reconsider. As far as I could tell, it should be within the line, but it could be a foot or two.

MR. SCHEMBRI: I'm sure he would be open to shrinking that down to be within that line of sight.

TRUSTEE GHOSIO: I think that's primarily what the concerns were for most everybody.

TRUSTEE DOHERTY: It's pretty clear in the code. If you could show that on a survey that we would be approving then that would be proof enough.

TRUSTEE KING: Does he have to go to ZBA if for this, too?

MR. SCHEMBRI: I believe so.

TRUSTEE GHOSIO: I believe so, because of these setback issues.

TRUSTEE KING: They may change it too. In the field it looks dramatically out in front, yet from the aerial it doesn't. It's very deceiving.

TRUSTEE BERGEN: Correct, it is.

TRUSTEE GHOSIO: So, unless there is any other comments, I would like to table this until we can get that survey line and just double check that.

MR. SCHEMBRI: And the flagpole and the --

TRUSTEE GHOSIO: I don't think the flagpole and the deck are going to be an issue. I can't speak for the whole Board.

TRUSTEE KING: The increase in the size of the deck was an issue.

TRUSTEE GHOSIO: They took that off. Mr. Schembri

called me the other day and said go back to the original and just, he didn't want that extra.

TRUSTEE DOHERTY: I'll second that. That was on the table.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: Number three, Proper-T Permit Services on behalf of **JUDIE LIZEWSKI** requests a Wetland Permit to construct a 4x26' fixed walkway, 3x12' hinged ramp and 6x20' floating dock. Located: 145 Fleetwood Road, Cutchogue.

The Board has been out several times to look at this and it's been before us several times, including last month, where it was tabled to this meeting because we had asked for it to be staked. It was staked but the ice took the stake away, so Mr. Fitzgerald, the agent for the applicant, went out with a very interesting device that worked very well to measure the distance out as to how far the dock would extend.

Just to reiterate what has been said before, the CAC, on October 8, the CAC inspected the property and there was no evidence of an existing dock and the proposed dock was not staked. This is October 8. So no recommendation was made at that time.

It was reviewed under the LWRP dated October 6, 2008, and it was reviewed and found to be inconsistent for the following reasons: It's located in a creek that is labeled as critical environmental habitat area, and so they did not feel that any additional docks should be put in a critical environmental habitat area. The proposed float is in a location of water depth ranging .3 to 1.6, is what he placed on in his review. The proposed action is private, non-commercial and is not supportive of development that enhances the community character or preserves the public access. And that was basically the findings of the LWRP coordinator.

Now, we have gone out, as I said, and looked at it. And, first off, is there anybody here to speak on behalf of this application?

MR. FITZGERALD: Yes, yes Jim Fitzgerald for the applicant.

TRUSTEE BERGEN: Now, on -- sorry, let me read into the record one letter that came in dated February 9. And again, I'll paraphrase, it's from a Thomas Lambert. And he is, his property is located on the cul-de-sac water which leads out to the main body water known as East Creek. He and his neighbors keep pleasure crafts in this body of water. Our primary concern with this application is safe navigation. By its nature, the cul-de-sac creates vessel maneuverability limitations. If the Lizewski docks are approved in the present configuration would interfere with safe boating. The potential for an incident would be heightened in bad weather conditions.

The second concern we have is the accuracy of the drawing submitted with the application. We question the distance measurements in the drawing and the

location of two presently existing floating docks. We believe these docks in question are actually closer to the proposed Lizewski docks. We are also questioning the shoreline representation. We observed over the year how sand shifting and vegetative growth is filling in the cul-de-sac. Current water depth listed on the application drawing is most likely lower than depicted. Upon viewing the application at your office we noticed the original plans submitted in 2002 called for a pole and not a floating dock. The plans reapplied for in September of 2008 also call for a pole and not a floating dock. The plans have been changed. The application papers have not. Thank you, for your consideration. Respectful yours, Thomas Lambert.

Now when we went out and looked at this, in looking at the, where you have the present proposed location of this dock -- excuse me, the catwalk leading to the dock -- we had recommended in our last hearing last month, that this be moved over farther toward the, I'll say the northeast. And you can see in the picture that is currently up on the screen here, there is an area there where there is no vegetation. And we had asked if there was consideration could be given to move this structure over there so it doesn't, the construction of it doesn't destroy as much habitat. Has there been any consideration for the applicant to move it over to that location?

MR. FITZGERALD: Yes. The only kind of significant factor is that putting it where we are proposing it enables us to use the remains of the former bulkhead that was there as part of the supporting structure.

TRUSTEE BERGEN: Correct.

MR. FITZGERALD: So it means that we have to make fewer holes in the ground. I don't think there would be a particular problem if it makes a lot of difference to the Trustees, to put it in that pathway, if you will.

TRUSTEE BERGEN: Now, I'm looking at the plans received February 4, 2009, stated revised January 21, 2009. And the LWRP coordinator mentioned this would be located in .3 to 1.3 feet of water. Where you currently have the dock proposed is, you are in, it looks like really the outer, well, excuse me, the entire float, anywhere from 1.6 to 1.8 feet of water. So I'm not sure where the coordinator felt it was only in .3 feet of water, because here it's showing at the landward side 1.6 going out to almost three feet. Now, my concern though is if we go with this recommendation to move this dock farther toward the northeast, according to this plan, that brings it into a little bit shallower water and I'm just not sure, you know, when I'm trying to weigh out the pros and cons of moving this, if moving it into shallower water if we are better off leaving it where the applicant has proposed.

TRUSTEE DICKERSON: The channel is also narrower.

TRUSTEE BERGEN: And what Trustee Dickerson also pointed out, it also brings it into a narrower portion of the channel.

TRUSTEE DOHERTY: Can I just suggest, if he leaves it where he wants it there and have him replant the area that is bear and just make that part of the permit to replant that area.

TRUSTEE BERGEN: What she is recommending is, if we allow this proposed dock -- and we are not saying we are even approving it yet -- but if we are allowing it to stay where you have proposed it rather than move it to the, farther to the east, if you would be willing to vegetate, as part of the construction of this dock, vegetate the small area that seems to be void of vegetation right now, that will help erosion control in that bank area.

MR. FITZGERALD: Sure.

TRUSTEE BERGEN: You can see it's a small area, probably three or four feet wide.

MR. FITZGERALD: I'm familiar with it. In the summer, there is Alterna Flora in that area, but as would be needed to make it nice, sure.

TRUSTEE BERGEN: Now, also to address, one of the neighbor's concerns here, where it's currently located it does meet the one-third rule, in other words it would not extend farther than one-third across the waterway. And the neighbor had also mentioned in his letter that it is directly across from two other docks, and according to this plan here, and as you can see the picture here, it is not directly across from two other docks.

So are there any comments from the Board?

TRUSTEE KING: I have one question. Have you been to the DEC with this yet?

MR. FITZGERALD: No, we haven't, Jim. We thought we would wait until we had an idea of what we were going to ask them for.

TRUSTEE DICKERSON: I don't know if you want to just explain to the audience the little flags here.

MR. FITZGERALD: As always, we are trying to balance your requirements with theirs, which are sometimes mutually exclusive, okay. They would prefer the deeper water and are not too concerned about with the length of the dock and you would prefer the shorter dock and are not as concerned as they seem to be with the depth of the water. So anyhow, no, we have not. And the, as it turns out, Mrs. Lizewski said you had stopped by and asked about that.

TRUSTEE KING: Yes.

MR. FITZGERALD: And the DEC permit that was obtained for the construction of the house, although it showed the dock on it, the DEC permit did not address the existence of the dock. So that this will be the first time they have seen it, and this is certainly in part because there was a disruption of the process at that time and one of the other consultants ended up doing it, that part of it.

TRUSTEE DICKERSON: Mr. Fitzgerald, your technique here, this is the buoy that shows the extent of the float?

MR. FITZGERALD: Yes. It works in water, too.

TRUSTEE DICKERSON: Yes. And it had a little weight at the bottom. But then it shows the distance here to this little flag, correct? This is the distance from --

MR. FITZGERALD: From the bulkhead, it's 30 feet.

TRUSTEE DICKERSON: Thank you. I just wanted to explain our little diagram.

MR. FITZGERALD: And that 30 feet scales correctly on the drawing.

TRUSTEE BERGEN: Has there been any thought of the applicant to return to the catwalk with a tie off pole or is the applicant set --

MR. FITZGERALD: We gave a lot of thought to that and in my discussion with Mrs. Lizewski -- Mrs. Lizewski, are you here?

MRS. LIZEWSKI: Yes.

MR. FITZGERALD: She is here to tell you, if I can't do it adequately, why she is opposed to that, and she said she certainly would not feel comfortable walking down steps to somehow or other get to the boat that was tied to a pole and which had to be maneuvered over next to the dock and held by somebody else while she got into it. It's just, it doesn't seem to be practical in this particular situation, all things considered.

TRUSTEE BERGEN: Thank you. Any other comments from the Board?

TRUSTEE DICKERSON: I just want to say that I could understand Mrs. Lizewski's request, but my concern is because it's a critical environmental habitat area and because of the depth, that I would be more inclined to approve the catwalk with the tie off pole because of the LWRP's concerns.

MR. FITZGERALD: You are entitled.

TRUSTEE DICKERSON: That's why I'm stating my opinion.

TRUSTEE BERGEN: Before I get to another comment, would the applicant be willing to use grated material for the catwalk.

MR. FITZGERALD: Oh, sure.

TRUSTEE BERGEN: Okay, I just wanted to check on that.

Okay, is there anybody else who would like to speak for or against this application?

MR. LAMBERT: Good evening. My name is Tom Lambert. You read my letter into the record. Since I submitted that letter, I've talked to some other neighbors who are not permanent. I should say full-time, year-round residents. They go to Florida or they just come out on weekends. So three other, as a matter of fact, the people who own the docks, they have the same concerns that my neighbor Mr. Wetzel and myself have. And Mr. Wetzel has taken measurement and he feels it doesn't fall within the one-third rule. As you can see, when the measurements were taken, it's frozen. You really can't tell where the shoreline is and, as I mentioned in the letter, the shoreline is filling in. And I want to say something about the letter, also. You said that I said the docks were across. I never said that in the letter. I said they are closer than what is depicted

in his drawing.

TRUSTEE BERGEN: Okay. Thank you.

MR. LAMBERT: And if the photographs were taken from both angles, you could see as it goes straight across that there is another dock here to the left, and it is closer.

TRUSTEE BERGEN: Yes. We saw that. And actually, we have been out in the field when there was not ice there. So as I alluded to, I think we have been there the last three months of field inspections, so we have seen this area, we have seen it without ice. We did see it when it was staked without the ice, and then we saw it this time since the ice was there, and the stakes had been removed by the ice, we saw it with this measuring, which was a very accurate measuring device. So we did, we have looked at this very carefully.

MR. LAMBERT: Okay. And the other point I would like to make is I feel it would be more neighborly if it conformed with the existing docks. The existing docks are not the same.

TRUSTEE BERGEN: Well, I'm looking at the existing dock that is in this picture.

MR. LAMBERT: That's the Dubon (sic) property and he said in no way is his dock 6x20.

TRUSTEE BERGEN: Okay. So it's the size of the float you are talking about.

MR. LAMBERT: Right. And the float, which you can't see in the photograph, but to the left, is even smaller than that. It's four by maybe eight.

TRUSTEE BERGEN: I don't know the exact dimensions but I agree with you, it is smaller.

MR. LAMBERT: And his concern is, he keeps a 23-foot boat there, which is pretty large for this area, and he doesn't know how he'll be able to maneuver and turn his boat around.

TRUSTEE BERGEN: Okay, thank you. Is there anybody else who wanted to speak on this application? Yes, you had something else you wanted to say, Mr. Fitzgerald?

MR. FITZGERALD: Yes. I'm sorry his boat is so big.

MR. LAMBERT: Pardon me?

MR. FITZGERALD: I said I'm sorry his boat is so big.

TRUSTEE BERGEN: Just address the Board, please.

MR. FITZGERALD: Please tell Mr. Lambert that I'm sorry the neighbor's boat is that big, but you will recall the initial or one of the most recent applications was an attempt, and I stood here and said we would like to make it just like those other docks, meaning with a shorter walkway and a ramp and a float right up next to the Spartina as it is on both of those docks directly across the way, but the Board felt that that was not suitable because of the depth of the water.

TRUSTEE BERGEN: Correct.

MR. FITZGERALD: Now, if the water is that much deeper on the other side, then it ought to make it easier for the other boats to maneuver in that area.

TRUSTEE BERGEN: And actually, again, this project plan

dated January 21, 2009, does show the deeper water is on the other side of this creek; not on the applicant's side of the creek but the other side of the creek. It shows you've got between two-and-a-half and it looks like 3.8 at the deepest. And it's both of those are on the other half of the creek.

Would the applicant have any consideration to a float that is maybe smaller than 6x20; in other words 6x15 or 6x10 float? I'm just throwing it out there.

MR. FITZGERALD: Sure.

MRS. LIZEWSKI: Sure.

MR. FITZGERALD: I'm sure Mrs. Lizewski is interested in being neighborly, as the neighbors would like her to be.

TRUSTEE BERGEN: That way it would more conform with the other floats on the other side of the creek, if we would take this down to a 6x15, that would at least make it conform more with the float that I'm looking at depicted in the picture on the screen. I don't know how the rest of the Board feels about that.

TRUSTEE DOHERTY: It makes sense. It's a smaller area, to have smaller floats. And I just wanted to note, once the structure is built, if it's found to be more than one-third across the creek, we'll then have to correct it at that point. But according to the survey, it doesn't show that.

MR. FITZGERALD: I think the point which is perhaps important, not only in this case but in many of the situations that the Trustees evaluate, is frequently, I've seen it and I'm sure you have, an applicant comes in with a professionally produced survey, hydrographic survey showing water depths and the underwater contours and what have you, and a lot of effort has gone into showing where we think the dock should be and the water depth and what have you, and the folks who are concerned about that generally don't have that kind of evidence of the same value in commenting on their perceived unsuitability.

So, I think that if we are concerned by the situation as Mr. Lambert presented, and the efforts of Mr. Wetzel has input, it would be good to see that information on a drawing showing the water depths and the width of the creek and so forth that are the subject of the adverse comments.

TRUSTEE BERGEN: Thank you. Are there any other comments from the Board?

TRUSTEE KING: What's the depth of water at the end of the catwalk?

TRUSTEE BERGEN: The depth of water at the end of the catwalk, it looks like is, it's hard to tell, but it looks like it at most, half a foot. Then at the end of the ramp, approximately 1.8. Excuse me, 1.6. 1.6 at the end of the ramp. So the float is sitting anywhere from 1.6 out to about two.

Now, the float has now been downsized a little bit so, again, it would still be, it looks like it will still be about the same range, 1.6 to two, even with

the downsizing of the float. Yes, sir, you had a comment?

MR. LAMBERT: Just to say, his drawing, it appears to me that his drawing is a copy of a copy. So if you are going to question drawings, I would question the copy of a copy. I don't know whose survey that is.

TRUSTEE BERGEN: Okay, thank you. If there are no other comments, I'm make a motion to close the public hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: I'll make a motion to approve the application of Proper-T Permit Services on behalf of Judie Lizewski as stated at 145 Fleetwood Road, with the following conditions: That there will be grated material used on the catwalk; that the float will be downsized from the proposed 6x20 to 6x15 using non-treated lumber, and; that we would, the applicant will revegetate that small area to the northeast that is currently void of any vegetation. And in making those adjustments deem this to be consistent under the LWRP.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(Trustee Doherty, aye. Trustee Bergen, aye. Trustee Ghosio, aye.)

(Trustee King, nay. Trustee Dickerson, nay.)

TRUSTEE DICKERSON: I'll vote nay. As I previously mentioned, my concern for the critical environmental habitat area, I don't believe the reducing of the float is going to change that and I felt that the proposed or suggested catwalk with a tie-up pole is adequate.

TRUSTEE KING: I'm also going to vote nay. I was on the Board the first time we reviewed this. We spent a lot of time and there was a lot of concern about having another float in that area.

TRUSTEE BERGEN: So just for clarification, how about we do a roll call vote.

TRUSTEE KING: Okay.

TRUSTEE BERGEN: Trustee Ghosio?

TRUSTEE GHOSIO: Aye.

TRUSTEE BERGEN: Trustee King?

TRUSTEE KING: Nay.

TRUSTEE BERGEN: Trustee Doherty?

TRUSTEE DOHERTY: Aye.

TRUSTEE BERGEN: Trustee Dickerson?

TRUSTEE DICKERSON: Nay.

TRUSTEE BERGEN: Trustee Bergen votes yea.

TRUSTEE KING: So it carries.

TRUSTEE BERGEN: It carries three to two.

TRUSTEE KING: How about we take a five minute break.

(After a short recess, these proceedings continue as follows.)

TRUSTEE KING: Number four, Young & Young on behalf of **MARK BAXTER** requests a Wetland Permit to construct a single-family dwelling, sanitary system, driveway, pool, deck, footpath and 4x82' open grate catwalk. Located: 5805 Main Bayview Road, Southold.

This is a project has been going on for a long time. It's very difficult. It's turning into one of these files we'll have to start weighing.

I'm looking for the CAC comments. CAC resolved the support the wetland application to construct single-family dwelling, sanitary system, driveway, pool, deck, footpath, 4x82' open-grate catwalk, with the condition the driveway is relocated north to prevent removal of large trees; gutters and drywells are installed to contain runoff. CAC also questions the height of the proposed catwalk. That's that.

It's been found inconsistent for the LWRP policy standards, and is therefore inconsistent with the LWRP. The setback to the wetland boundary to the proposed actions is less than 100 feet; a minimum setback distance of 100 feet from the wetland line is required pursuant to Chapter 275-3.

I'll just highlight some of this stuff out of this report. Pursuant to 275-6 the applicant must show all wetlands within a 200-foot radius of the area for which removal and deposited material is proposed; sanitary system as proposed will involve grade changes. I can't read what that says. I guess it's to. Grade changes to the subject parcel and construction of a permanent concrete water wall which may alternate the existing storm water drainage patterns, therefore redirecting storm water flow to the neighboring property to the south, southeast and west. The applicant may be required to submit a drainage plan for the entire site detailing how all surface water generated from the impervious surfaces shall be kept on site through infiltration or retention pursuant to 275-11, reference below.

And did goes on now to address the proposed catwalk, which is also inconsistent. The concerns are habitat fragmentation, prop dredging of the bottom land causing suspension of sediments and contaminants, impairment with the physical loss of wetland habitat to prevent the growth of vegetated wetlands. That's pretty much it. It goes on. There is quite a bit of detail here. Most of it concerns habitat fragmentation. This is a critical environmental area.

TRUSTEE BERGEN: Jim, what's the date of that LWRP evaluation?

TRUSTEE KING: January 12, 2009.

TRUSTEE BERGEN: Thank you.

TRUSTEE KING: And we got it today.

TRUSTEE DOHERTY: It was received in the office today. He must have started the, started it on the 12th but by the time he finished it. Because we didn't have it for our last meeting.

Jim, we had asked at the last meeting, we talked to Mr. Baxter and he told us he had some letters from the DEC. Did he submit those?

TRUSTEE KING: There is a couple of letters here.

TRUSTEE DOHERTY: Regarding the wetlands to the west.

TRUSTEE KING: They really don't address it. Just these two letters here, I believe, are the ones he gave to me in the office. And it doesn't really clarify too much.

TRUSTEE DOHERTY: These are regarding the subdivision.

TRUSTEE KING: There is so much information here it's really hard to go through everything. I have a letter here from 2005, from the Trustees, concerning this survey, where it was out of our jurisdiction. And I think a lot of the reason is, I think the reason for that is there was no mention of wetlands on the other side of this property.

MR. BAXTER: I would like to speak on that. I'm Mark Baxter, the owner. I have a lot of paperwork on this, too. I think if we go back --

TRUSTEE KING: Like I said, this is a very difficult application.

MR. BAXTER: It's been seven years.

TRUSTEE KING: We've been way through this thing.

MR. BAXTER: It goes back, the first letter I have here is, let's see, the Town Trustees, Mark Terry, Town Trustees, back in 2000 -- April 25, 2005. The Trustees have reviewed the above-reference application and found the wetland line near the proposed house to be less than 100 feet therefore a building or activity in the area will need a permit. We started there, when Heather first came out --

TRUSTEE KING: What was the date on that letter?

MR. BAXTER: 2005.

TRUSTEE KING: What month?

MR. BAXTER: April.

TRUSTEE KING: This is in June of the same year.

MR. BAXTER: I have a few more of those. What happened is that's where the flagpole was, or is. So what happened, she said that because of the wetlands over there, that we would have to move it back ten feet to get out of the hundred feet. So we just moved that line on the plan. So that got us to 100 feet.

Then there was, May 4, we have, Southold Board of Trustees reviewed the survey prepared by Young & Young last dated May 4, 2005, and determined the proposed location of the house with subdivision Mark Baxter of Bayview, Southold, to be out of the wetlands jurisdiction under Chapter 97 of the Town Wetland Code and Chapter 37 of the Town Code. Therefore, in accordance with the current Tidal Wetland Codes 97 and Coastal Erosion Habitat Number 37, no permit is required. Please be advised that no construction sediment or disturbance of any kind may take place seaward of this tidal wetland jurisdiction boundary. So that was Al Krupski, President. That was back on May 4, okay. So we progress here, to June. Let's see. In June 8, 2008, this was some information that

you put forth to the Planning Board. The Southold Town Board of Trustees reviewed the survey prepared by Young & Young on May 4 and determined the proposed location of the house for the subdivision at Mark Baxter, Southold, to be out of the wetlands jurisdiction under Chapter 97 of the Town Wetlands Code. There will be a required 50-foot non-disturbance buffer landward of the wetlands line. That was that part.

TRUSTEE KING: That's the letter -- I have that letter in front of me now and I have that survey in front of me now.

TRUSTEE GHOSIO: What was the date of that letter?

TRUSTEE KING: The date of the letter was June 8, 2005.

MR. BAXTER: Now we'll go to April 17, 2006. Along the way here, in the Planning Board, they held open the meeting for about four months for more information to come back. And I think this is when this fell into this situation here. This letter here. You guys came out again, because it was some talk about being wetlands on the north side of the property. As a matter of fact, I think I met you, Jim, out there, and you were talking about it, and a couple of the Trustees. As a matter of fact, Mark Terry was out there with Heather Tetro (sic) too, and she was measuring it on the north side of the property, and didn't find anything there. But the Board of Trustees inspected again, the above-reference parcel to verify the wetlands delineation and found that the wetlands are correctly identified on the survey. There are concerns about the occasional flooding that occurs on the location of the phragmites and on the dredge spoils. The Board asked that you consider the following recommendations. And this is you, Jim: No disturbance of the phragmites in order to keep a larger buffer area to the wetlands; placing the house on pilings in order to decrease the need for fill which would impact the adjoining properties; no turf in the area that floods; containment of all drainage and French drain placed on site. That was April 17. That's, you signed that, Jim.

TRUSTEE GHOSIO: Of what year?

MR. BAXTER: 2006. And I think this is the crux of it, really, for the meeting that when the neighbors came down to the Trustee meeting, that was, I think some place in June, 2006, and they showed you a lot of pictures and they had a lot of information and stuff, and they said there was wetlands on the north side of the property

TRUSTEE KING: It would be the northwest side, looking at the survey. West, northwest side.

MR. BAXTER: And this is from you again, Jim. The Board of the Trustees requests that the Planning Department asked New York State to flag any wetlands on the north side of the Baxter property and the Warner property where the phragmites is growing behind the berm from Goose Creek. This is when you met, the Board met with

some of the neighbor at the work session at the public hearing. So they came June 21, I guess. The neighbors expressed concern about flooding depth to groundwater and reaching the berm. That also brings tidal water into the area.

Now, last meeting that I was here, you asked me if we could have the DEC come out and look at the northwest part of the property so to see if there was wetlands there. And I have a letter from them. And she faxed it over to me. Mrs. Ackerman. Let's see. And this letter was sent to nine of the neighbors. So this one is June 26, 2006. And this one is July 13, 2006, from the New York State DEC. And all those concerns that were brought up tonight about being wetlands, you know, vegetation; vegetation wetlands,, and this was addressing all those issues. The New York State Department of Environmental -- and by the way, they sent out five people, five biologists out to the property and inspected the whole place. I mean they went over it with a fine tooth comb. Five people came out. The New York State Department of Environmental Conservation is in receipt of your letter dated March 7, 2006 -- that was from the neighbors -- requesting that the permit listed above be revoked pursuant to the uniform procedures -- and it has a number there -- five different grounds for modification suspension and/or revocation of a permit by the New York State DEC. And they go through the things. Materially false or inaccurate statements in the permit application or supporting papers. This is some of the issues they are addressing. Failure by permittee to comply with any terms or conditions of the permit. Exceeding the scope of the project as described in the permit application. And this is one of the big ones, because this was the big issue about being wetlands on the northwest side of the property. Newly discovered material information or a material change in the environmental conditions relevant technology or applicable laws or regulations since the issuance of the existing permit. So this was about there being wetlands over on the northwest side of the property.

After careful review of the letter and its attachments the department has determined the concerns outlined in this letter do not constitute material false and inaccurate statement pertaining to this application. We also find the newly discovered material information or material change in the environmental conditions has not been found since the issuance of the existing permits. We also find that the other three sections do not apply.

Therefore, the New York State DEC has determined it's not appropriate to revoke the subdivision permit as you have requested.

So they came out there and found no wetlands there.  
TRUSTEE DOHERTY: Mr. Baxter, do you have a copy of the letter the DEC letter is referring to?

MR. BAXTER: I brought that down to the office and put it in the file.

TRUSTEE DOHERTY: Thank you. Only because this letter itself doesn't really, I mean just reading this letter alone and reading the number four, newly discovered material information, doesn't say where it's referring to. So if we have that other letter, that would help.

MR. BAXTER: I went down to the DEC this week and I wanted to get from the biologist that actually went out to look at it, I wanted to get their notes and stuff.

But what happens is you can't get it for like three or four weeks and you got to get the file. But it came back because of the letter that the neighbors sent, and the actual -- do you have the letter the neighbors sent?

TRUSTEE DOHERTY: No, that's what I'm asking you for now. Because this to us doesn't really mean anything because it is not specifying where.

MR. BAXTER: That's the letter they are addressing.

TRUSTEE DOHERTY: Okay, it says, in addition, the area of the proposed house and sanitary system abut land owned by Joel Warner, Jr., and this land consists of phragmites and other vegetation where the land is often water soaked, even during dry weather and less than 50 feet of the proposed sanitary system. And if you look at map it shows you where Joel Warner is, which is the one on the corner.

MR. BAXTER: That's the letter from the neighbors.

TRUSTEE DOHERTY: I know. That's what I'm saying. The letter from the DEC is not saying northwest side.

MR. BAXTER: The Warner property is on the northwest side.

TRUSTEE DOHERTY: Right. But we need this letter to coincide with this letter so we know what this letter is talking about.

TRUSTEE GHOSIO: The DEC letter is refuting the neighbor's letter.

TRUSTEE DOHERTY: And having the DEC letter alone does not tell us that.

MR. BAXTER: That's why I wanted to get the clarification from them. It isn't very good. And I told them that.

TRUSTEE DOHERTY: Because when I read this, I said, well, this doesn't really tell me where. But if you put it with that letter, it does specify where.

MR. BAXTER: Right.

TRUSTEE KING: Now, the original, if I go back to the June 8, 2005, letter, they put it out of our jurisdiction.

MR. BAXTER: Yes.

TRUSTEE KING: And I'm looking at that survey. It's quite a bit less, what's proposed then and what's proposed today.

MR. BAXTER: No.

TRUSTEE KING: I'm just taking a quick look. There was no swimming pool. The sanitary system was nowhere near the size. It was just at a proposed location for the house. There was no retaining wall around the sanitary system.

MR. BAXTER: The retaining wall didn't come in at that time. But it's still back more than 100 feet from the wetlands.

TRUSTEE BERGEN: (perusing.) What I'm doing is using the flagpole, it's on both of these plans, as a reference point.

TRUSTEE KING: It's a good reference point.

MR. BAXTER: Okay.

TRUSTEE DOHERTY: Look at the size of the sanitary system; four pools.

TRUSTEE KING: They have an expansion pool, a cesspool.

TRUSTEE BERGEN: This sanitary system that's proposed now is much larger than what was proposed back then. What I'm more interested in though is the letters going back to '05 and '06 determining wetland boundary from the Board of Trustees. In particular because of that northwest area.

MR. BAXTER: Now, the thing is, I could even sort of see, if you guys made one trip out there and there was an issue about maybe you missed it or maybe, gee whiz, we didn't really go over there. But the complaint and the real issue was is there any wetlands on the northwest corner over there. That was no doubt about it. It was people coming all the time. And I stood out there with some of you and said, no, there is no wetlands over there. It was not just something that fell through the cracks. It was looked at a bunch of times.

TRUSTEE KING: That's the dilemma we are up against. We had this on other properties where we have had the consultant, the consultant, the DEC, and the town all come in and everyone has a different wetland line. It's happening all the time. A lot of it is just interpretation.

MR. BAXTER: We are consistent. The DEC and you guys were consistent with saying where the wetlands line was. It wasn't any disagreements there.

TRUSTEE GHOSIO: I think Mr. Baxter makes a compelling argument. I mean, how many bites of the apple can you get? He's got at least three letters showing non-jurisdiction.

TRUSTEE KING: My biggest concern with this application today is the swimming pool, the size of the retaining wall around the raised sanitary system, the amount of fill that will be brought in. Those are my primary concerns. And also the catwalk. It's going to be in completely undisturbed wetlands. That's the big concern. I'm not so concerned about a house on piles. I think it could be a more modest size. But all the rest of it really troubles me. This is a very difficult application.

TRUSTEE DICKERSON: I think there is another factor also, Bob, where we have a new, I think it's title LWRP coordinator, Scott Hilary, who has looked at it through different eyes and has been very concerned and has done a very lengthy LWRP report and has spent a lot of time on it since he started in January working on it, and he's just getting it to us now. And I didn't make the meeting last night but I believe his concern was that was a wetland area. Which is a new factor in an old sequence of events.

TRUSTEE KING: Scott is saying based on his knowledge, his credential, that that's a wetland. He's convinced of that.

TRUSTEE GHOSIO: And that may very well be the case.

The problem here is sequential in nature. He has a letter from the Trustees that says it's out of our jurisdiction. How many bites of the apple do you get? If he had been, if the permit had been issued at that time when the Trustees believed that this was out of our jurisdiction, we would not be here today. I don't know if it's fair after seven years. I mean, I understand, you know, the environmental issues over there are important to me as well. For example, I'm not a big fan of the catwalk either, and the swimming pool, but if the applicant was under the impression based on letters he has from us and from the DEC that he could build a house there, at this point, I think the horse is out of the barn. I don't know, I don't think it would be fair to say no at this point.

Whether or not we are right or wrong.

TRUSTEE DICKERSON: You are saying when new evidence comes to light you should not take it into account?

TRUSTEE GHOSIO: Yes. In this type of a situation, I am. It's because it was not just, like he said, it was not just a case of, well, we made a mistake. He has several letters. He has a letter from our former environmental technician. You know, so, I'm just saying it's just not fair. If a mistake is made, you know, I don't know how else to put it.

TRUSTEE BERGEN: Bob, I have to say I agree with you.

You know, and in doing so, I'm contradicting what I said last month in that I felt this was wetlands when I went out and looked at it. But I have to agree with you here, in all fairness to the applicant that with, with these several letters from this Board and from the DEC saying there are not wetlands there, that comes off the table for me. So my concern for this application kind of mirrors Jim's with the pool and then the amount of fill coming in and the wall and the sanitary system.

TRUSTEE KING: Those are big concerns for me.

TRUSTEE BERGEN: So I'm agreeing what you are saying, Bob.

TRUSTEE KING: And I'm sure some of these pictures have been here, they are from extreme, so I --

MR. BAXTER: One of the issues, that was when the Planning Department was going through this. And it was a big thing. There was a lot of people involved down there, people yelling and this and that. And they were saying it floods all the time. It doesn't flood all the time. If we get a bad nor'easter, we get a little water in the back, and that's because there is a little pitch in the property. Otherwise it would not be flooded. So it doesn't flood all the time. It doesn't.

TRUSTEE DOHERTY: The main thing that concerns me is the sanitary system. It's huge. Maybe if the house is reduced in size, the sanitary system can be reduced.

The other thing I noted, the C&R's in the planning subdivision said the sanitary system must be 100 feet

away from the wetlands.

MR. BAXTER: Which was established by you and the DEC, and that's why they had that, the stipulation that it was. That's why they gave us the letter.

TRUSTEE DOHERTY: On the east side. I have a problem with the pool and the size of the house and the catwalk itself, too, as well.

TRUSTEE GHOSIO: Would you be willing to remove the pool and catwalk from the application?

MR. BAXTER: That's tough.

TRUSTEE KING: I wish we had an attorney here. I have a couple questions myself.

MR. BAXTER: One of the issues was the DEC originally wanted me to put a clothe business that you walk down to the water with. Because I was trying to get it to go a little bit different. Then you guys came out for the review about the thing and you said that you didn't like the idea of it being out there. And we actually moved it back to the shortest part you could get to it. And then in the midst of it, between that six or seven months with the DEC, they came back and said they are not allowing the clothe thing anymore. And they were going to approve that part with the clothe. Then they said we are not allowing that now. And they said you'll have this. And I said that's pretty much what I wanted to begin with. So I went to the shortest distance and I went to the catwalk above the thing.

TRUSTEE DOHERTY: And we appreciate that.

MR. BAXTER: I mean the pool, I'm willing to do something with the pool.

TRUSTEE KING: What's the Board's pleasure? I would like to move along. This has been going on for a long time, but I'm very uncomfortable with what has been submitted, as submitted.

TRUSTEE DOHERTY: The way the project is submitted, to me, it's just too big for that area. I have concerns.

MR. BAXTER: I don't want to be disrespectful or anything. According to what, though?

TRUSTEE DOHERTY: Well, according to just that whole area is sensitive, and personally I feel that it should not be a buildable lot. But it is, and there is nothing I could do about that. So we have to work with it. And it is a buildable lot and I just feel that put the minimum possible there. Meaning no pool, the smallest house possible. I would like to see that.

TRUSTEE KING: Those are my thoughts also.

MR. BAXTER: No matter whatever house goes there, there will have to be an elevated, they would at least two or three feet underneath the cesspool. So no matter what you have to have the cement there. It could be a one-bedroom house. That's going to be there.

TRUSTEE BERGEN: That was the question I had. Because I'm not that familiar with the County Health Department regulations. How many bedrooms is this house, proposed?

MR. BAXTER: I think it's four.

TRUSTEE KING: Five, I believe.

MR. BAXTER: Is it five? We could get that down to a three-bedroom house.

TRUSTEE BERGEN: If it was downsize it to a three-bedroom house, my understanding is the sanitation field would be downsized also. Maybe that would help mitigate this.

MR. BAXTER: I think the house was three bedrooms. I think the side walls would be about a foot less on the thing. Instead of four it would be three. We could put that in.

TRUSTEE DOHERTY: That would reduce the amount of fill that is going in it.

TRUSTEE KING: One of my concerns, when you bring all that fill in, what will happen when that property does flood? Where is it going to go?

MR. BAXTER: It's going to go right out where it went when it came in. Actually, most of the fill will be in the cesspool thing and a little in the driveway and actually that will level it out where it just settles in like a sump almost.

TRUSTEE DOHERTY: That will actually be higher.

MR. BAXTER: It will be actually level. Because the property kind of rolls from the back then kind of has a dip in it. That's just basically going to be leveled off.

TRUSTEE DOHERTY: I wouldn't say it's going to be level but I understand what you are saying.

MR. BAXTER: Because that's where the water lays, where the dip is.

TRUSTEE DOHERTY: Then where will it go?

MR. BAXTER: Where it came in.

TRUSTEE DOHERTY: But as it disburses, will it go on the neighbor's property?

MR. BAXTER: No. first of all, there is a berm there. I know there was some mention about a berm breaking through over there. That berm was not put there to save the property owners from getting water on their lots. That berm was put there so when they pumped up the fill on there, it kept the fill from going on the neighbor's yard. And if you really look at it, that berm is higher than anything else that is around there, so when the water gets up there, it would be a foot in my yard if it went over the berm.

TRUSTEE DOHERTY: What about the property to the south?

If you are building up your property, it's going to be higher, it's going to the property to the south. You won't be putting fill on your neighbor's property.

MR. BAXTER: No, but if you look at the property, it's all pitched from Main Bayview Road. It's way higher than me. They are about five or six feet higher than the back of my property. So where the driveway comes in, right at the first, that will be the elevation there. Which is the low point for everybody's yard in the back there. So it's not like if the water gets up there, it will run right out where it came in.

TRUSTEE DOHERTY: Right. So you are filling that and your neighbors are not filling theirs. So they still

have the lower pitch. So it will disburse that way.

MR. BAXTER: No, it's not. If you look at the property, it comes back to where the first corner, when you walk back there is a little right of way. Right at the corner of the fence, that will be the elevation of the property. Everybody's property there is higher than that point. So I mean it's not like we are building up higher so the water is going over there. It will be at that elevation going back out because it's lower there. And that's the low point of their yards.

TRUSTEE KING: I'm getting confused. I'm just looking at this profile of the sanitary system wall, and it shows inside finished grade and also shows a finished grade on the outside. And it looks to me like it's going to have (perusing) -- that means exposed wall 80 inches high.

MR. BAXTER: No, I think it's four feet on the stakes there. I'm not sure where it shows up. If you look at the stakes we had out there, it's four feet.

TRUSTEE KING: If you look at the finished grade, it's 80. This is your interior finished agreed. That's what I'm looking at. Maybe I'm confused.

TRUSTEE GHOSIO: The one side is 80 inches. The other side it would not be.

TRUSTEE BERGEN: The finished side, it would be around 30. That's about 80 on the other side.

TRUSTEE GHOSIO: So on the side facing the neighbor, it's 80 inches.

TRUSTEE BERGEN: But if the number of bedrooms are decreased, so the sanitary could be decreased, you are saying the wall may be coming down a foot.

TRUSTEE KING: You are looking at a wall that is 100-something feet long. It's tremendous.

TRUSTEE GHOSIO: That's pretty long.

TRUSTEE BERGEN: That's big.

MR. BAXTER: One of the issues there, and I thought about that, and I was not very happy with it, but if you look at it that the phragmites are going to grow to one side of that, you won't even see the one side you are saying is 80 inches. The phragmites there are going back to Smith Drive South. The other side will be like three foot high. It will be like a planter and the driveway coming in.

TRUSTEE KING: I'm getting a headache.

TRUSTEE DICKERSON: Do you want to give the applicant a chance to redesign it and bring it back to us and table it, as opposed to --

TRUSTEE BERGEN: I mean, I like the idea of -- what is being discussed up here is giving you the opportunity to redesign this using some of the recommendations that we have had. What I'm hearing is, okay, let's say you elect to remove the pool, downsize the house and bedrooms, checking with Suffolk County Health, seeing how that affects the sanitary field. But it sounds like you are going to be coming back, even with all that, with this sanitary field wall being 65 inches high still.

TRUSTEE GHOSIO: It's a six-foot wall on the one side.

TRUSTEE BERGEN: On the one side. And about two foot, maybe a little less than two foot, 26 inches, on the finished side.

TRUSTEE KING: 30 inches on the inside. I think we have two choices. We can either address this and vote on it or give him the opportunity to come back with something different.

MR. BAXTER: I mean I don't mind coming back with something different. But I don't want you to tell me no next time I come back here.

TRUSTEE BERGEN: That's exactly why I just made that statement.

MR. BAXTER: I'll do what you want me to do to make this pass. If we are talking about getting this done, I'm willing to work with you.

TRUSTEE KING: My thoughts are a lot like Jill's. Small house, downsize everything and we can probably work something out. I'm concerned about 450 cubic yards of fill coming in there.

TRUSTEE DOHERTY: Yes, that's a lot.

MR. BAXTER: I mean 450 yards of fill, I'm not trying to make any light of it, but it's almost going to look like no fill is in there, really. I mean, 450 yards in that kind of a spread and this length is not much fill.

TRUSTEE DOHERTY: That's my point. It's a huge area that being filled in. That's my point.

TRUSTEE KING: That's 45-ton, ten yard dump trucks.

TRUSTEE DICKERSON: It's up to you, Jim. That's your choice.

TRUSTEE KING: What does the Board feel?

TRUSTEE BERGEN: Well, I would recommend giving the applicant the opportunity given the feedback he's heard tonight, coming back with something we could look at more favorably, hopefully more favorably next time, but before we get there you may want to check to see if anybody wants to make any comments from the audience.

TRUSTEE KING: Anybody else want to comment on this application?

(No response.)

TRUSTEE KING: I'm make a motion to table this and give the applicant a chance to come back with a downsized, dramatically downsized version. Hopefully we can move forward. I don't think the Board is interested in the catwalk?

TRUSTEE DOHERTY: No.

TRUSTEE KING: Or the pool?

TRUSTEE DOHERTY: No.

TRUSTEE KING: Those are two big concerns.

TRUSTEE DOHERTY: No catwalk, no pool and a smaller house.

TRUSTEE KING: I'll make that motion to table it.

TRUSTEE BERGEN: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. BAXTER: Thank you.

TRUSTEE KING: And the beat goes on.

TRUSTEE DICKERSON: Number six, Patricia Moore on behalf

of **WILLIAM HAMILTON** requests a Wetland Permit to redesign the swimming pool, extend the existing deck and construct a wall to support the structures.

Located: 2674 Grandview Drive, Orient.

Anyone here who would like to speak for this application?

MR. FISCHETTI: Good evening. My name is Joe Fischetti. I'll represent Patricia Moore and the applicant. The

plans that were submitted to you were designed by me and I would be glad to answer any questions. We did meet out in the field. I would be glad to answer any questions

TRUSTEE DICKERSON: Thank you. We have, I don't know if these were in the file. The CAC supports the application with the condition that the patio is pervious and drywells are installed to contain pool backwash. We all went, most of us went out to see this and met with you on the 4th.

The LWRP report has been reviewed inconsistent due to the distance of the proposed action to the natural protective feature of the bluff to be approximately 80 feet. Minimum setback distance of 100 feet is required pursuant to chapter 275-3.

The LWRP reviewer also has made quite a point that, with aerial photos in his report, that your pool and deck area are actually extending out beyond the two eastern and western neighboring properties. The proposed action is not a water-dependent use therefore does not meet the above reasons to warrant maintaining existing development within this area. The distance from the proposed action to the bluff is approximately 80 feet. Minimum separation distance of 100 is required pursuant to 280-116. I'm just trying to skim through the report. Just bear with me. Part of it is hidden under the clip. The distance from the proposed area to the coastal erosion hazardous area is approximately 18 feet. It is recommended that the structure be located as far away from the coastal erosion hazard area as practical to maximize the distance from the hazard area and minimize the potential future structural loss.

MR. FISCHETTI: 18 feet did he say? Coastal zone erosion line is on my maps that were taken off the surveys. Most of those are not 18 feet. They look, to me, to be 30 or 40 feet on the surveys that I had.

TRUSTEE KING: Do we have an old file on that?

MR. FISCHETTI: There was a file you guys approved with the sanitary systems there that showed the coastal zone erosion line.

TRUSTEE KING: We approved a pool over in the corner of the deck, if I remember.

MR. FISCHETTI: Correct.

TRUSTEE KING: Just out of my own curiosity, why was it all just completely redesigned?

MR. FISCHETTI: What was happening was we were relocating the sanitary system and getting a pool in the location that was not viable at that point. When

we looked at it, we said, we are disturbing all the sanitary system, we are moving the pools, the new sanitary system in the location. We said we would prefer the pool, after discussing it with the client, in that location, which is where we did it. So basically the pool is in the location where the sanitary system was relocated. So I think there is an error in that.

TRUSTEE KING: No, just in my own mind, you go through all this trouble to do this then you come back and it's completely redesigned.

MR. FISCHETTI: When you get attorneys involved with designs, we have a problem.

TRUSTEE GHOSIO: I won't say you said that.

MR. FISCHETTI: When the design came to me to work with the client, I said why are we moving all these. This is a real problem moving the sanitary system. The sanitary system locations are right there. Right where the new pool is. That was the other one that was done. So we just redesigned it to work a pool that would be more pleasing to the living area of the house, and that's what we came in with.

TRUSTEE DICKERSON: My concern, my reason for voting last time was that the pool was nicely sort of tucked in here. And as you can see, your stakes here, this is very deceiving because of the tree line, but if the stakes, you could go right to that property, you are bumped out farther than this easterly neighbor, and also from the aerial and the LWRP report, also to the westerly neighbor. So that's my concern. Again, I approved the pool when it was tucked in nicely here but I'm not inclined to approve any of the seaward movement of this application.

MR. FISCHETTI: Again, the two houses are not visible for visual purposes here.

TRUSTEE BERGEN: Actually in looking at this, I believe the way the code reads is that the structure of the house, in other words, an addition to a house or structure of the house can not go out forward or seaward of the other adjoining houses. This is a pool. It's not a house. And we have approved pools that have gone farther out than adjoining properties.

What I look at here is, where this was originally approved, the sanitary system was out closer to the bluff, and now what you are doing is you are leaving the sanitary system where it is and making the pool closer to the bluff. When I look at our code, we are more restrictive on distances, setbacks, on sanitary systems than we are on pools.

So for myself, it seems more critical environmentally for me to leave a sanitary system back farther from the bluff than the pool. So I personally, I don't have a problem with this proposal.

MR. FISCHETTI: That was my feeling.

TRUSTEE GHOSIO: I agree.

TRUSTEE DOHERTY: I agree also.

TRUSTEE DICKERSON: Anyone else in the audience who would like to speak? Any other Board members?

(No response.)

TRUSTEE KING: This is hard to read, it's so small. Does that say 52?

TRUSTEE DOHERTY: This looks like 80.

(Board members perusing.)

MR. FISCHETTI: I have a bigger plan here. Keep this.

This is a larger scale. I gave it to you because it was easier to handle. But you can't read some of them.

TRUSTEE KING: You gave it to us so I couldn't see it.

MR. FISCHETTI: Those numbers are easier to read.

TRUSTEE GHOSIO: When I looked at the plans yesterday it seems to me the smaller, surface plans of the pool are actually smaller than the septic system.

MR. FISCHETTI: I didn't do an analysis on the old one and the new one, but it is smaller.

TRUSTEE DOHERTY: The proposed pool is further away from the top of the bluff than the approved septic system.

TRUSTEE KING: They were going to move the septic, it's going to be 65 feet from the top of the bluff. And this pool is 80 feet from the top of the bluff. So the new sanitary system will go in here. The first one that we had approved.

TRUSTEE DOHERTY: So actually everything is kind of further away from the bluff in this new plan.

MR. FISCHETTI: That's actually, when I looked at it, when I did it, I used that same logic. I said why are we doing this. We are disturbing more of that area. And I said I can bring it tighter and leave everything where it was and have a better design. That was my feeling.

TRUSTEE KING: That's our choice, do you want a pool or cesspool?

TRUSTEE DICKERSON: Somewhere on here is the backwash for the pool?

TRUSTEE KING: I don't think it will make a huge difference.

TRUSTEE DOHERTY: Yes, he has that on here.

TRUSTEE DICKERSON: The backwash wash for the pool?

MR. FISCHETTI: That's actually not on there. The drywells that are there are existing drywells.

TRUSTEE DOHERTY: So the pool will hook into the drywells?

MR. FISCHETTI: Yes, they'll have those as their -- those drywells are kind of just thrown there. They are just saying they were existing drywells that are there now that I had to relocate. We put them there.

TRUSTEE DICKERSON: Do we want any restrictions on it? I mean for distance.

TRUSTEE DOHERTY: Do you want to just put that in.

TRUSTEE DICKERSON: If there is no one else to speak from the audience, I'll make a motion to close the hearing.

TRUSTEE GHOSIO: I have just one question. Do you know if this is going to be a salt water pool or chemicals used to sanitize it?

MR. FISCHETTI: It's not a salt water pool.

TRUSTEE DICKERSON: I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: I'll make a motion to approve the request for a wetland permit to redesign the swimming pool and extend the existing deck and construct a wall to support the structures on 2674 Grandview Drive in Orient with the condition that there be a backwash for the pool and since this new design is relocating cesspools -- excuse me. Drywells.

TRUSTEE KING: It's not really relocating it. It said septic system is staying where it was.

TRUSTEE DICKERSON: Because of where the pool is being redesigned, the drywells will remain, and therefore improve this to be consistent with LWRP.

TRUSTEE DOHERTY: Do we want hay bales during construction on the top of the bluff?

TRUSTEE KING: You don't need it.

TRUSTEE DOHERTY: I'm just thinking to make it more consistent

TRUSTEE GHOSIO: You have the fence there, too.

TRUSTEE DOHERTY: And it goes up.

TRUSTEE BERGEN: I'll second that motion.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. FISCHETTI: Thank you.

TRUSTEE DOHERTY: Number seven. En-Consultants on behalf of **JOSEPH & RITA DENICOLO** requests a Wetland Permit to renovate the most seaward 20x19.7' portion of the existing one-story dwelling to remain (including roof restructuring and installation of new windows and doors); replace portion of existing one-story dwelling (inplace) with two-story dwelling constructed over existing foundation; construct two-story addition approximately 14 square feet of which will be located within Chapter 275 jurisdiction; and construct a deck addition on the easterly side of the dwelling. Located: 3475 Wells Avenue, Southold.

This was found consistent with LWRP, however the following best management practices are recommended: The ten-foot non-turf buffer to be a 20-foot non-turf buffer. And the CAC supports the application with the condition of 20-foot non-turf buffer, and gutters and drywells are installed to contain runoff from the existing and proposed structures.

Is there anyone here to speak on this application?

MR. HERMAN: Rob Herman of En-Consultants on behalf of applicants. Did you read, Jill, that it was consistent or inconsistent?

TRUSTEE BERGEN: Consistent.

MR. HERMAN: Most of the footprint expansion of the dwelling is actually proposed beyond the Board's jurisdiction, except for a small part of it. Primarily the part of the work that is within a hundred feet of the bulkhead is the renovation of that 20x20 portion of

house that is the most seaward portion. And also the reconstruction of the existing dwelling into a two-story structure that will mesh with the proposed footprint expansion that again has all been directed landward.

Drainage system of drywells is proposed to capture and recharge runoff for the entire finished structure, and a new sanitary system will be located about 150 feet from the bulkhead as shown on the site plan.

There is an existing ten-foot non-turf buffer that was imposed by the Board as part of a bulkhead replacement permit that was issued to a prior owner. That non-turf area has been maintained and is in pretty good shape there. I think the owners would like to try to maintain that, maintain the status quo with respect to that non-turf buffer. They have stewarded it in a proper fashion and made sure it remained, and they do have a certain amount of yard area between that buffer and the house. And since it was incorporated into the design to really push this expansion landward, um, we were hoping try to maintain that.

TRUSTEE DICKERSON: Rob, I inspected this. I did not recall seeing much of a buffer at all.

MR. HERMAN: Really?

TRUSTEE DICKERSON: Really.

TRUSTEE DOHERTY: It's hard to tell from these pictures.

MR. HERMAN: Because that really was just left unmaintained when I was there.

TRUSTEE DICKERSON: Unmaintained, I mean, crabgrass is there, but as far as I'm concerned the lawn goes all the way down to the bulkhead.

MR. HERMAN: Well, remember when you used to issue these permits with these non-turf buffers it was not the norm to require some active establishment. It was really you just had to stop mowing, you had to stop fertilizing.

TRUSTEE DOHERTY: You are right.

TRUSTEE DICKERSON: They are mowing lawn down to crab grass, so it pretty much looks like a lawn to me. So I would condition that become some sort of pervious material.

MR. HERMAN: Okay.

TRUSTEE DOHERTY: And the notes in our file say a 15-foot non-turf buffer.

TRUSTEE DICKERSON: That's a big lawn.

MR. HERMAN: Maybe we can do a 15-foot buffer and have some sort of actual rehabilitation of that area so it's maintained as a more identifiable non-turf buffer. I think we could probably agree with that. They are actually proud of their efforts that they didn't keep maintaining it, so. But certainly we can --

TRUSTEE DICKERSON: Thank you.

MR. HERMAN: Have them take a more active approach to that as a mitigation measure for the permit. I think that's agreeable.

TRUSTEE DOHERTY: Are there any other comments from the Board?

(No response.)

TRUSTEE DOHERTY: Any other comment from the audience?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll make a motion to approve the application of En-Consultants on behalf of Joseph and Rita Denicolo with the condition applied for, with the condition of a 15-foot non-turf buffer.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. HERMAN: Now, do you have any specific direction as to whether you want them to actually try to establish sand there in place of the lawn or any particular plantings, or just go with the sort of code definition of a pervious, completely non-lawn --

TRUSTEE DOHERTY: I would say pervious, non-lawn, non-crab grass. And this is consistent with LWRP. And we have a 15-foot buffer on there.

MR. HERMAN: Yes, I can get you that.

TRUSTEE KING: Number eight, Costello Marine Contracting on behalf of **GERALD DICUNZOLO** requests a Wetland Permit to remove 76' of existing bulkhead and construct new bulkhead in place. Provide ten-foot wide non-turf buffer landward of bulkhead. Install two 12"x30' long mooring pilings on north side of existing floating dock. Located: 1935 Westview Drive, Mattituck.

Jill and I looked at this. CAC supports the application with the condition the roof drains running through the bulkhead are removed and a drainage plan is submitted. No treated lumber is used. The CAC questions whether the additional pilings will interfere with the dock on the adjacent property. And I believe there were two pipes through the bulkhead, if I remember right. Three, four-inch PVC coming through the bulkhead, one on either side. Both LWRP -- it's exempt from the bulkhead to replace existing bulkhead, the applicant property is exempt. I think they've addressed the piles as being inconsistent, but I can't read it. Hang on (perusing.).

It is our recommendation that the proposed action is inconsistent with LWRP standards. That's on the two 12-inch piles. And they have a number of concerns; impair navigation, interfere with the public use of the waterway way; bottomland, impair views and establish precedent contributing to the cumulative impacts caused by similar docking structures.

Jill and I went and looked at this. We both are familiar with the area. I had absolutely no problem with replacing the bulkhead in place. We would like to see those drains done away with. But we did have a problem with the two mooring piles. I don't see the need for them so I would not be inclined to approve the

two mooring piles. I also have a call from the neighbor, who unfortunately could not be here, with her concerns that would interfere with some of her maneuvering around.

In looking at it, when we were out there, that whole area, there is a lot more structures and floats along that particular area than ever would be approved today. I think they are very fortunate they have what they have, and I don't think they need two more piles on the other side of that dock. That's my opinion.

TRUSTEE DOHERTY: Another spot for mooring whips.

TRUSTEE KING: And that's all I have to say.

(perusing.) I saw some literature, they are supposed to hold up to a 20,000 pound boat?

MR. COSTELLO: They have a couple that are 30,000 pounds.

TRUSTEE KING: They are pretty rugged.

MR. COSTELLO: They are still breaking. If you don't tie them up and don't use them properly, they do not work.

TRUSTEE KING: But that's my feeling. I don't know if anybody else has any comments. I don't see the need for them in that area. And it will be a ten-foot non-turf buffer. That's consistent with what the next door neighbor has.

MR. COSTELLO: And the only reason they wanted the ten-foot is because underneath that tree, and I believe even though the cross section shows that we'll put a backing system in, we'll probably put helical screw anchors, because the one thing they don't want is that tree damaged. And I don't blame them.

TRUSTEE DOHERTY: It's a nice tree.

MR. COSTELLO: It's in good shape.

TRUSTEE KING: So any other comment?

TRUSTEE DOHERTY: I agree with what you said, Jim.

TRUSTEE DICKERSON: Me too.

TRUSTEE KING: Anybody else?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: And I'll make a motion to approve the application with the exception of the two tie off piles are not going to be permitted.

TRUSTEE GHOSIO: What about the drains?

TRUSTEE KING: And the two drains will be blocked off that go through the bulkhead. I guess it's for roof runoff.

TRUSTEE DOHERTY: Just to conform with Chapter 236.

TRUSTEE KING: It's been our policy to try and stop some of these drains, however we are not having much success with the town doing it. It always troubles me, you know, we block off a four-inch PVC but we can't do anything about a 22 or 24-inch pipe that the town is using. It's very frustrating for me, personally.

MR. COSTELLO: You've done a good job on trying to get some of it done.

TRUSTEE KING: Anyway, that's my motion.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: And it's exempt from LWRP.

TRUSTEE KING: Yes, by removing the two piles it brings it into consistency.

TRUSTEE GHOSIO: Number nine, Costello Marine Contracting on behalf of **GARDINER'S BAY HOMEOWNERS ASSOCIATION** requests a Wetland Permit to maintenance dredge (10-year maintenance) 1,000 cubic yards of sand from main channel to -4' below mean low water and use spoil as beach nourishment. Located: Gardiner's Bay Estates channel/boat basin, Spring Pond.

The CAC has resolved to support the application and this has been found by the LWRP to be consistent. The LWRP coordinator is suggesting some best management practices such as deploying a silt boom surrounding the immediate area of the project, and that the dredging project should occur outside of the shore bird breeding, nesting and fledging period, that would be March 15 through August 15. And it says maintain the existing shoreline slips, that dredge material will be deposited to promote the use of the shoreline by nesting birds.

This is pretty routine. Every ten years this comes in, I have been told. This is just routine maintenance of the channel. Would anybody like to speak on behalf of this application?

MR. COSTELLO: Yes, my name is John Costello. I don't know who handled that last application, but we are the agents for the Gardiner's Bay Homeowners Association, and they have been maintaining this -- they own the bottom and they have been maintaining it. And they only want a certain depth of water to be maintained. They want to do minimal dredging, trying to keep the cost down. And we deposited as much on that berm that we can. We are not even sure of the quantity but we are trying to allocate enough to cover whatever is necessary to keep that four-foot depth in that channel for all the homeowners.

If there was any, if the spoil area was inadequate for any reason, you know, we would probably have to come back in to ask the Trustees or we could put it on the other side of the jetty and let it act as a bypass, but then we would need permission from the adjacent owner. But that had been done once.

TRUSTEE GHOSIO: Any problem using a silt boom on the project?

MR. COSTELLO: We can put it around the dredging barge but, you know, it's not going to be real good because the sediment is almost all sand, which settles out. Up in the upper creek where there is a little more muddy sediment it would work better, for the environmental reasons.

TRUSTEE GHOSIO: Any comments from the Board?

(No response.)

Is there any mention to maintain the slopes where the dredging material is going so it could be used by the nesting shore birds there?

TRUSTEE DICKERSON: That was an LWRP recommendation, best management.

TRUSTEE GHOSIO: Yes.

TRUSTEE BERGEN: Bob, is the material location on the down drift side of the littoral drift?

MR. COSTELLO: Would this Board allow that to be placed into the down drift side? That acts as a bypass.

TRUSTEE BERGEN: That's where we want to have it placed is the down drift side. I want to just check to make sure that's where it is.

MR. COSTELLO: That would be an alternative. It's logical, because it's just doing a bypass.

TRUSTEE BERGEN: Correct.

TRUSTEE GHOSIO: I can't tell from the pictures. Are the spoils going to the down drift side?

MR. COSTELLO: Not now. It's being proposed to the east side where there is a beach, and that's where it's been placed on several different occasions. And then it's graded off.

TRUSTEE BERGEN: So if it's going to the updrift side, we just have to make sure it's up above the intertidal zone so it doesn't go back into the inlet.

TRUSTEE GHOSIO: That's what it's showing in the pictures.

TRUSTEE BERGEN: Okay.

TRUSTEE GHOSIO: Any other comments, questions?

TRUSTEE DOHERTY: I'm familiar with the area and it is sandy and I don't really see the need for a silt boom there. I agree with John on that.

TRUSTEE GHOSIO: I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE GHOSIO: I'll make a motion to approve the application for Gardiner's Bay Homeowners to do the dredging as they applied for, and just ask that when the spoils are put up that the dredge materials deposit is made such that the shoreline area can still be used by the nesting shore birds. And that's it.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: I just want to go back to the hearing before this one. I want to reopen it.

The recommendation from the LWRP was to use a silt boom during reconstruction of that bulkhead in Mattituck.

MR. COSTELLO: Okay, not a problem.

TRUSTEE KING: That was it.

TRUSTEE DOHERTY: I'll second that.

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

TRUSTEE DOHERTY: I'll make a motion to close the meeting.

TRUSTEE KING: Motion to adjourn?

TRUSTEE DICKERSON: Second.

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