

BOARD OF TOWN TRUSTEES

TOWN OF SOUTHOLD

Minutes

Wednesday, March 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  
Lori Hulse, Assistant Town Attorney

CALL MEETING TO ORDER  
PLEDGE OF ALLEGIANCE

NEXT FIELD INSPECTION: Wednesday, April 8, 2009, at 8:00 AM  
NEXT TRUSTEE MEETING: Wednesday, April 22, 2009, at 6:00 PM  
WORKSESSION: 5:30 PM

APPROVE MINUTES: Approve Minutes of February 18, 2009

TRUSTEE KING: Good evening everyone, for those of you who are not regular customers here, don't come to all the meetings, my name is Jim King, I have the honor of serving as chairman of this Board, the Board of Trustees. I would like to introduce the rest of the folks here tonight. To my far left is Dave Bergen, Trustee; next to him is Peggy Dickerson; next to myself is Jill Doherty, she is the vice-chair; to my right is Lauren Standish. Lauren runs the office for us, along with Elizabeth Cantrell. The next Trustee is Bob Ghosio, and Lori Hulse is our legal advisor, to Bob's right. Wayne Galante is here keeping track of what everybody says. If you have a comment, please up come up to the microphone and identify yourself so he can get it on the record for us. And Jack McGreevey is here from the CAC. They go out and do many of the same inspections we do and give us their recommendations on the projects.

With that, I guess we can get going.  
The next field inspection we'll set for Wednesday,  
April 8, eight o'clock in the morning.  
TRUSTEE DICKERSON: Make a motion to approve.  
TRUSTEE DOHERTY: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES.)  
TRUSTEE KING: The next Trustee meeting will be April  
22, at 6:00 and we'll have a work session at 5:30.  
TRUSTEE DOHERTY: Motion to approve.  
TRUSTEE DICKERSON: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES.)  
TRUSTEE KING: Do I have a motion to approve the minutes  
of February 18, 2009. I read through them, I didn't  
see any major mistakes.  
TRUSTEE DOHERTY: I read through them and gave Lauren my  
comments. There were two little typos.  
TRUSTEE KING: Nothing to worry about. Anybody else?  
TRUSTEE GHOSIO: I didn't see anything.  
TRUSTEE KING: Anybody want to make a motion?  
TRUSTEE GHOSIO: So moved.  
TRUSTEE BERGEN: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES.)

**I. MONTHLY REPORT:**

TRUSTEE KING: The Trustees monthly report for February,  
2009. A check for \$3,256.47 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.  
That's over in Town Hall, not in this building.

**III. STATE ENVIRONMENTAL QUALITY REVIEWS:**

TRUSTEE KING: State Environmental Quality Reviews, we  
have a number of them.

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, March  
18, 2009, are classified as Type II Actions pursuant to  
SEQRA rules and regulations, and are not subject to  
further review under SEQRA.

There is a list of them here.

Jack May - SCTM#92-1-5  
Daniel Hume - SCTM#72-2-5  
John Elick, as Trustee - SCTM#82-2-3.2  
Peri Hinden - SCTM#107-6-18  
Sheila Kennedy - SCTM#9-9-22.1  
Fishers Island Yacht Club - SCTM#10-1-9

Robert Swing - SCTM#53-6-24  
Thomas and Joyce Messina - SCTM#30-2-61  
Marry Zupa - SCTM#81-1-16.7  
Rose L. Milazzo Revocable Trust - SCTM#57-2-20  
Steven and Andrea Kolyer - SCTM#81-1-10  
Robert and Susan Toman - SCTM#78-2-15.2

TRUSTEE KING: I'll make to motion to approve that.  
TRUSTEE DOHERTY: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES.)

#### IV. RESOLUTIONS AND ADMINISTRATIVE PERMITS:

TRUSTEE KING: Under resolutions and administrative permits, number one, **INA HASDAY** requests an Administrative Permit for the existing 4x25' walkway and masonry fire pit surrounded by slate tiles. Located: 100 MacDonald's Crossing, Laurel.

That's right on the east side of Brushes Creek.

Jill and I went out and looked at it. It's a little fire pit down toward the bulkhead with a walkway to it. We didn't have a problem with it. The only recommendation we had was on the west side of the property, along the bulkhead by the creek, where the ground has been disturbed, it should be replanted with American Beach Grass. It's probably an area about 15 feet wide from the bulkhead. So that would be our recommendation on that.

There is a consistency review from LWRP, finds it inconsistent. It's because of the setback. It's less than the 50 feet for an accessory structure. But this is bulkheaded and it's a developed piece of property right through the bulkhead.

TRUSTEE DOHERTY: I think by planting beach grass will mitigate it.

TRUSTEE KING: If we plant the area up along the bulkhead on the creek, it has absolutely no environmental impact on it. So I would recommend that it be found consistent with LWRP by doing that.

Do I have a second?

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

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

TRUSTEE KING: Yes, sorry. I always forget. We have some postponements. We don't want anybody sitting here waiting for something to come up that we are not going to address.

Number seven under transfers and amendments, Costello Marine on behalf of **PERI HINDEN** requests an Amendment to Permit #6732 to install two eight-inch mooring pilings on the south side of the existing dock. Located: 1255 Woodcliff Drive, Mattituck, has been postponed.

Under Coastal Erosion and Wetland Permits, number

one, 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.

Number two, JMO Environmental Consulting on behalf of **DAVID WILMERDING** requests a Wetland Permit and 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.

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

Number 12, 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 bituminous concrete. Existing unpaved storm water leaks offs will be improved with rip 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 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.

Number 14, **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, has been postponed.

Number 15, Docko, Inc., on behalf of **SHEILA KENNEDY** requests a Wetland Permit to construct a 4x55' wood pile and timber pier including four tie-off pilings and an 8x20' floating dock with associated hinged ramp and restraint pilings. Located: Equestrian Avenue, Fishers Island, has been postponed.

Number 16, Docko, Inc., on behalf of **FISHERS ISLAND YACHT CLUB** requests a Wetland Permit to dredge 13,000 cubic yards of sandy silt with a one-foot over-dredge allowance of 6,000 cubic yards over 145,000 square feet by clamshell bucket for open water disposal at New London. Remove existing "A" dock with sailing program float, "B" dock with floating "T" end and dinghy dock, construct 36 linear feet of seven-foot wide main pier extension and seven 30x4' fixed fingers with associated support and tie-off/fender piles. Install 228 linear feet of eight-foot wide main float with eighteen 20x3' finger floats, 216 linear feet of eight-foot wide main float with thirteen 20x3' finger floats, two 20x4' finger floats, two 13x42' and one 19x42' sail floats all with associated ramps, restraint piles and tie-off/finger piles. Reconstruct or replace an existing 12x20' floating dinghy dock water ward of the apparent high water line, and install a small boat crane landward of the apparent high water line. Located: Central Avenue, Fishers Island, has been postponed.

16, 15, 13 and 12 were all on Fishers Island. I feel bad we have really gotten behind on Fishers Island. We made a couple of attempts. The weather killed us. We couldn't get over there. But we are set to go for next Tuesday, so everybody is hoping the wind doesn't blow. Because I don't fly, so we go by boat. It's just tough getting over there in the winter time. And if you try taking the ferries, it's a real ordeal because you have to take the New London Ferry, Orient to New London, then you sit around and wait for the ferry that goes to the island, then that ferry leaves back and you wait for this ferry. One time I started at six in the morning and get home nine at night. You can do it, but it's not easy.

Number two, **N&J LLC** requests an Administrative Permit to install an eight-foot high deer fence. Located: 4735 Westphalia Road, Mattituck.

I have a problem with number two. Is there anybody here? Probably not, because these are just Administrative Permits and Resolutions. This is for a deer fence. Eight-foot high deer fence. The problem is they want to put it right through a freshwater wetland. And I would almost like to postpone this and meet these people out in the field and go over this with everybody.

TRUSTEE DOHERTY: I think the rest of the Board should see it. Jim and I went out and saw it.

TRUSTEE KING: Jill and I went out, and Scott Hilary went out with us also. It's a piece of property, the development rights have been sold, and it's all these big greenhouses. But the area down behind where they want to put a fence is undisturbed area. I hate to see a fence go so far into it.

TRUSTEE DOHERTY: I was thinking if they want to put the fence on the property line and the wetlands are right

on the property line so I was, we were talking about having the fence go caddie corner to that and not in the wetlands.

TRUSTEE DICKERSON: Let's go look at it.

TRUSTEE DOHERTY: Because nobody is here, we don't want to move on that.

TRUSTEE KING: Technically it's actually agricultural. It's more or less exempt. But it's still going through a wetland. I suggest we meet somebody from there and talk it over.

TRUSTEE BERGEN: I agree.

TRUSTEE DOHERTY: Lori, when something agricultural like that is exempt, they are not exempt from the Trustees code at all, they are just exempt from the Building Department?

MS. HULSE: They are not exempt from Trustees under most circumstances. So this would not be.

TRUSTEE KING: They couldn't go into the wetland.

MS. HULSE: No, of course not. We've had that issue before, and as you recall, the violation that we had, whether it was for agricultural purposes or not, that was the issue. It's really up to the Trustees to review that to see if it's really, truly an agricultural purpose. But it's very, very narrowly written, so it would have to be forwarding agricultural operations, it has to be part of the business of the agricultural. It has to be a business, not just a general, oh, for agricultural.

TRUSTEE KING: This is like a good commercial nursery operation.

MS. HULSE: No, it actually has to be integral part of the actual business.

TRUSTEE DOHERTY: But it's not.

MS. HULSE: I mean that's been -- I've dealt with that a few times with other properties and it's so narrowly drawn it doesn't really apply to most of the cases.

TRUSTEE DOHERTY: I just want to make sure we were going the right path.

MS. HULSE: Yes.

TRUSTEE KING: I would like to take a second look with everybody. I'll make a motion to table that.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: Number three, **CHRISTINE HUNT** requests an Administrative Permit for the existing porch extension, second-floor balcony and front stoop replacement. Located: 5700 Vanston Road, Cutchogue.

This was found consistent under LWRP. I went out and looked at this. These were all as-built and they were all fine. It didn't have any effect at all on the bluff or the bay. So I had no problem with this. So I would make a motion to approve it.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll do number four. **DEBORAH DOTY** requests an Administrative Permit to remove a diseased tree adjacent to the wetlands, with the stump cut to grade. Located: 670 West Creek Avenue, Cutchogue.

She came in the office yesterday, had a picture, and I thought it would be okay to put it on but I think the consensus of the Board is we need to have somebody actually take a look at it. Even though we are familiar with the property, it's just right on the wetlands and it doesn't show in the picture if it's in the wetland or what. So I would like to table this for an inspection and put it on for next month.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE GHOSIO: Number five, Meryl Kramer on behalf of **JULIETTE VASSILKIOTI** requests an Administrative Permit for the asbuilt trellis, outside shower and to replace inkind/inplace the existing wood fence. Located: 2015 Bay Avenue, East Marion.

There was a violation on this because the work had been done without a permit. The violation has been resolved and they came in to get the permit on the trellis and shower and the fence. It's a very small lot on Marion Lake. It's really not a whole lot to talk about on it. I think it's fine. I'll make a motion to approve the Administrative Permit.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Number six, Anne Pizzicara on behalf of **MARC SOKOL** requests an Administrative Permit to install a temporary six-foot high deer fence using metal posts, ten feet from the wetland boundary. The fence is proposed to be installed in the Fall and removed in the Spring. Located: 965 Cedar Point Drive East, Southold.

We were out there. I don't think anybody on the Board was really happy with it at all.

TRUSTEE DICKERSON: It's a double fence, too.

TRUSTEE KING: It was found inconsistent on the review.

TRUSTEE DICKERSON: There are also drains with no drywells.

TRUSTEE KING: There is a question on the original permit. One of the requirements on the permit was gutters and leaders to drywells on the house. They have not been installed yet. As you can see. And the fence issue, the deer fences, I don't know where we are going to head with these deer fences. This is six feet high now.

TRUSTEE DICKERSON: It's also a double fence.

TRUSTEE KING: Lori, on residential properties, how do you get a six or eight-foot deer fence around residential without violating the code?

MS. HULSE: You don't.

TRUSTEE KING: Technically what they already have up there is not legitimate. It's a double fence. One inside the other. They are about six feet high. Quite frankly, I'm at a standstill on this application. For one thing they have not complied with the requirements for drainage. Now, I'm not inclined to move forward with this until they do comply with that.

Again, it's a difficult situation. Here again, it's something that has probably been there for a while and no one complained about it.

TRUSTEE DICKERSON: They have not complied with the permit, that's the biggest thing.

TRUSTEE KING: Are they here?

MS. PIZZICARA: Yes, we are here.

TRUSTEE KING: Step up.

TRUSTEE KING: Just identify yourself for the record.

MS. PIZZICARA: I'm Anne Pizzicara and my husband Richard Pizzicara. We live here in Southold.

Our daughter and son-in-law live in Chicago. They are away, unfortunately, for most of the year, except for the summer. And fortunately they have a house here in Southold where they come. There is a huge problem on the property with deer. The woman next door fed the deer. So there was no way that they could keep them out. They had some nice landscaping done and the landscaper tried to protect the property because as soon as he put something in, the deer would come along and take it out. So that's the situation with the fence that we wanted to put up temporarily near the water, because the deer come in around the fence and on the property. The place is a mess because there is nobody there. You can't walk across the ground without being up to your ankles in deer droppings, so.

TRUSTEE KING: It's not the only place in town like that. Between geese and deer, it gets interesting.

MS. PIZZICARA: It's a real problem down where we are because it's kind of isolated.

And as far as the drainage goes, I know they did have an inspection. They had to put in -- I really can't speak for that. I know nothing about it. They did, when they --

TRUSTEE DICKERSON: This needs to go into --

MS. PIZZICARA: Into a drywell?

TRUSTEE DICKERSON: Yes.

MS. PIZZICARA: I know they had leaders put in and downspouts and all that. A local contractor did the work. As far as we knew it was subsequently looked at and approved. I thought.

TRUSTEE DOHERTY: We went out to do, along with inspecting for the application for the fence, a compliance check on the house and it does did not pass because the drywells were not there. That's what we are telling you now, that you need to put the drywells. It says it in the permit.

MS. PIZZICARA: We'll tell them that. But as for the fence, it's just something that because they are not there that often, we thought we could help.

TRUSTEE KING: Quite frankly, I just don't know.

MS. PIZZICARA: It's going to be taken down in the, you know, in the summer.

TRUSTEE BERGEN: I think this is an issue that the town really has to address in the code. I sympathize with the applicant because we receive requests probably almost monthly for deer fencing to go up.

TRUSTEE KING: And how many times have we had people remove fences that they already put in the wetlands we had them remove. You are not the only one this has happened to.

TRUSTEE BERGEN: Correct. It's very frustrating for waterfront owners, for both deer and geese. Because they both are very destructive. In the eyes of many, beautiful animals, but they also can be destructive. Particularly deer. So I agree. I think it's something that the town has to address.

TRUSTEE DICKERSON: I don't have as much trouble with that one as this one that is at the end of the property. I forget which direction this is. But this is along the water.

TRUSTEE BERGEN: Our code currently states that we need to maintain a wildlife corridor and so fencing cannot go down to the water, except for, you know, something like a post and rail fence would be allowed, but we can't, our code specifically says we can't put a fence down to the water, that it blocks the wildlife corridor.

Again, I sympathize with you. I personally feel this is something that should be amended by the town in the future, because it is a real problem. It's a real problem.

MS. PIZZICARA: So with those posts taken back ten feet, will that be all right? The landscaper put those in because that's where the deer were coming in from next door where the woman was feeding them.

MR. PIZZICARA: I think the unfortunate thing here is that the local contractor that was hired to do this work did not advise us of any of the legal ramifications regarding permits and as a result, since my son-in-law and daughter are from out of state, they took it for granted that the contractor knew what he was doing, in this context. And so it's very unfortunate that, in a sense, we feel victimized by the contractor, who should have informed us. And we have spent a lot of money doing this, the landscaping, and it's completely destroyed now. And I think the worst part of this is that we can't even walk on this property because of the fecal matter all over the place.

TRUSTEE BERGEN: Again, I know exactly what you are saying. I have that very same condition at my house, sir. Very same condition. And it is very frustrating. One piece of advice is to go back to the contractor and have the contractor agree to remove these things at no charge to yourself or your son-in-law. I mean he made the mistake to begin with.

I would think it would be the right thing to do, for him to not charge to make it right. You could certainly try that.

MS. PIZZICARA: So move back what distance, ten feet, 20 feet?

TRUSTEE BERGEN: Ten foot is the code.

TRUSTEE DOHERTY: The code says ten feet.

TRUSTEE KING: The code specifically says split rail all the way down. It's a Catch-22 here.

TRUSTEE DOHERTY: No, that says on the beach. Because we looked that up. Split rail on the beach. That's not a beach when it's ten feet up. It's yard. We checked into that.

But is it approvable for the Building Department, that height? That type of fence and that height? So if we consider the ten feet up and that fence, are we approving something that is not approvable by the Building Department?

MS. HULSE: That's the first course of action.

TRUSTEE KING: I think we should look into this a little more.

MS. MOORE: You are allowed six feet.

TRUSTEE DOHERTY: They have another fence up there, too.

TRUSTEE KING: There are two fences. One is four feet. The other is about six.

TRUSTEE DICKERSON: That's nothing for a deer.

TRUSTEE KING: They can jump over that.

TRUSTEE DOHERTY: I think maybe we should table this and you should maybe go to the Building Department and find out if this is allowed.

TRUSTEE KING: Talk to the Building Department. Like Dave said, the town is going to have to start addressing this, because the fences are popping up like mushrooms.

TRUSTEE BERGEN: I agree.

TRUSTEE DICKERSON: Should we write a letter?

TRUSTEE BERGEN: We can certainly do a memo to the Town Board.

MS. PIZZICARA: And what do we do?

TRUSTEE DOHERTY: Sit and wait.

MS. PIZZICARA: I'll write a letter to the Town Board.

TRUSTEE DOHERTY: You could write a letter to the Town Board also, tell them about your predicament.

TRUSTEE KING: I think we should table this for now. In the meantime, hopefully we can get the drainage taken care of in the meantime.

MR. PIZZICARA: We'll do that.

TRUSTEE KING: See if you can get going on something.

Because you are not the only folks. It's all over town. I live on Mattituck Creek, it's a little, small piece of commercial property. I live there also.

Everybody here has seen my yard. It's as big as this

room. There were ten deer in it the other morning, six o'clock in the morning. I seen 22 swim across

Mattituck Creek about three weeks ago. It looked like

something out of a movie in Alaska where they have the big migrations. 22 deer.

MS. PIZZICARA: They are getting killed on our road, on Main Bayview. It's like a killing field.

MR. PIZZICARA: Where the General Wayne is, there are deer there all the time.

MS. HULSE: Are you considering giving them approval now to remove the fence, the part that is in violation?

TRUSTEE KING: Sure.

TRUSTEE DOHERTY: Should we do a resolution?

MS. HULSE: If you want to give them approval to do that, sure.

TRUSTEE DOHERTY: All right. I'll make a resolution to approve them on --

TRUSTEE KING: We'll approve removing the fence. So if there is any work being done there, you are not in violation by digging or anything. But we sympathize with you. Believe us, we do. It's just, quite frankly, I don't know how to address this to meet the requirements of the code and meet your requirements. So I'll make that resolution and we'll table it for now.

TRUSTEE DICKERSON: We have to pass the resolution --

TRUSTEE KING: We'll approve removal of the illegal fence at this time.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MS. PIZZICARA: But what is illegal is what is the ten feet in the wetlands?

TRUSTEE DOHERTY: What I'm saying, the whole thing may be. According to the Building Department. We are concerned with the ten feet. But the Building Department, you have to check the height requirements with the Building Department. So before you even remove it, check with the Building Department, what the height requirements are, what you are allowed there.

MS. PIZZICARA: They said eight feet.

MR. PIZZICARA: When we filed for the permit and discussed this with the Trustees, they said that we were allowed a six-foot fence, ten feet from the wetlands. We were allowed to file that kind of permit. Okay. And with the understanding that, you know, we thought there would be no problem with that. I mean if they would have told us no, it's not doable, that I could understand.

TRUSTEE KING: There is some misunderstanding. See, years ago, you had to have a building permit for a fence. But then they did away with that. You don't need a building permit to put a fence up. But, the fence has to meet all the code requirements. And I think that's kind of an area where people say, well, I don't need a permit for it, so I'll put an eight-foot fence in. That's not the case.

TRUSTEE DOHERTY: I don't want to say remove the ten feet and put eight. That's not our department. So I'm just asking you to check. It might be fine, what you have, except for that ten feet. So I'm just asking you to check with them.

MS STANDISH: The application is for six feet. When you measured it in the field, it's eight feet.

TRUSTEE DOHERTY: Right. What Lauren is saying is when we went out in the field, the fence we measured was eight feet high, not six feet high. And your application says six feet high.

MS. PIZZICARA: That's what we would put up.

TRUSTEE DOHERTY: On the side line, right now is eight feet now. I don't know if that eight feet is legal as far as the Building Department. That may have to go down to six feet. Again, check with the Building Department.

MS. PIZZICARA: All right.

TRUSTEE KING: Sorry we couldn't be more helpful. But we have to dig into this.

MR. PIZZICARA: I think Mr. Bergen's idea is well taken, that I think Southold has reached a point now where this really should be addressed before, you know, residents start investing money and having to litigate these kinds of issues in the future.

TRUSTEE BERGEN: I agree.

MR. PIZZICARA: Anyway, thank you.

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

TRUSTEE DOHERTY: Number five, Applications for Extensions, Transfers and Amendments. The Board has reviewed all these and we, just to save time, we'll group numbers one through four. They read as follows:

Number one, **PECONIC LAND TRUST** requests the last One-Year Extension to Permit #6326, as issued on March 22, 2006. Located: 650 First Street, New Suffolk.

Number two, McCarthy Management, Inc., on behalf of **BERNARD AND CAROL KIERNAN** requests a One-Year Extension to Permit #6538A, as issued on March 21, 2007. Located: 1605 North Parish Drive, Southold.

Number three, **PETER COWAN** requests an Amendment to Permit #6165 to remove the fencing near the wetland area and install a new fence around the existing swimming pool. Located: 435 Mockingbird Lane, Southold.

And number four, **CHRISTIAN & HEIDI FOKINE** request an Amendment to Permit #6871 to construct a 4x59' catwalk with a 4x4' stairway at the seaward end. Located: 2505 Wells Avenue, Southold.

I'll make a motion to approve as applied for.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: These are not public hearings. But if anybody has any comments concerning some of these, you are more than welcome to come to the microphone and identify yourself and let us know your feelings.

TRUSTEE BERGEN: Number five, **MARY ZUPA** requests an Amendment to Permit #6214 to construct a 4x30' fiberglass grid dock 1.5' above grade with a seasonal 3x18' ramp and 6x20' floating dock secured by two eight-inch piles in a "T" configuration. Located: 580

Basin Road, Southold.

This was, the CAC resolved to support as long as best management practices were used with the construction of this facility. The Board did go out and looked at this and we didn't have a problem with it. We do have one letter here that is dated February 23. This is from Mrs. Zupa.

Dear Trustees, I request an amendment to permit #6214. Enclosed please find the map of a "T" configuration rather than straightforward.

Then we have another letter, dated March 16, and it's from the Paradise Point Association. It's rather lengthy. They have three basic concerns. The primary concern is the proposed dock may significantly interfere with the ability of association members to safely use with undo interference the slips on the west side of the dock and allow safe unimpeded egress and ingress into the channel.

The second is difficult to fully understand the impact the proposed "T" formation would have on existing permitted association dock.

Third, while the Zupa's proposed dock is 20 foot in length and six feet wide, because of it's proposed location the impact of any boat that is longer than 20 feet on the dock must be addressed.

We were advised the DEC has not granted the Zupa's to have any dock and the DEC is reviewing the application.

Finally, as you recall, the association has a deeded easement around the Zupa's property. So the dock as proposed would require association permission. We have not granted such permission. Thus, unless a settlement is reached, the association will not grant consent to block it's deeded easement. Thank you for your consideration of our concerns.

Now, we know that there was a permit issued for this. It then went to the DEC. The DEC ended up providing a permit for this. So what the applicant is doing is amending the Trustee permit to match the DEC permit.

TRUSTEE KING: I believe the one we issued, the float went straight out, then the DEC modified it to a "T" configuration and they had called me about that and said that's what they wanted to do, and they wanted to know if we would work with them on it, and I said yes.

TRUSTEE BERGEN: I have a survey dated as received October 19, 2005. With the application it shows a dock going straight out, and this new survey that has been, it's dated looks like February 23, 2009, shows a "T" dock at the end of the catwalk. "T" floating dock.

One question for legal counsel. I apologize. I have a question for Lori. This is with regard to the Zupa's property. They have applied for this dock, which we have previously given a permit for and are now amending it because of the DEC permit. The question that has been brought up by the association is, the association has an easement that runs along the water

line there and the association has stated that any dock that blocks that easement, they have an issue with. The dock as constructed will still allow people to walk back any forth. Is there a problem then where this, is there a problem with the easement and the structure that is proposed there?

TRUSTEE DICKERSON: Are they requiring steps there? Because you can walk there.

TRUSTEE BERGEN: Nothing is there now. We had approved the dock. We had approved, what I'm showing her is the survey dated October 19, 2005. We approved this dock that goes straight out. DEC approved what is depicted here on the survey dated February 23, 2009. You can see the difference. The only difference is it now comes to a "T" at the end instead of a straight out configuration. One of the issues that the association has brought up is they have an easement along the shoreline and they are objecting to this dock saying it will block their easement or interfere with their easement.

MS. HULSE: Do they have documentation to support that here? I would like to review it before I give an opinion on it. I mean, I don't know if they have an easement. Do they? Do you have the documentation for the easement?

MS. KEITT: Not with us. It's a deeded easement. It's held up by the courts.

MS. HULSE: That would have to be something I would have to review before giving an opinion.

TRUSTEE DOHERTY: Can you come up to the mic and state your name and put it on the record.

MS. KEITT: I'm Patrice Keitt, President of Paradise Point Association.

I don't want do get too sidetracked with that issue because really the association's primary concern is navigability and safety and the proximity of the proposed docks to the existing dock structures. Because we were, as you may recall, we moved our docks ten feet to the west because of a different application of the Zupa's. So to accommodate that, we moved over that way and now we are being squeezed in from the other side. And there are a couple of, you know, larger boats that dock on the west side. So we are really concerned, given that the Zupa's have a large boat as well, about backing in and out and also about blocking just the ingress and egress into the mouth there.

TRUSTEE BERGEN: Absolutely. And we had addressed that. I remember that specifically coming up when the permit was first applied for, and we approved that permit. We addressed those concerns and it was the Board's decision at that time that this would not interfere with navigability into those docks. So that was a very legitimate concern that you brought up back then and we addressed it when we approved the original docks.

Now we are, that issue, in our mind, was resolved back when this permit was first issued.

MS. KEITT: When the permit was first issued, had the docks been moved already? I don't know that they had been, the ten feet to the west. That's my concern.

TRUSTEE BERGEN: They had not.

MS. KEITT: That just happened last year. That was my concern. Because now we are ten feet further.

TRUSTEE BERGEN: Okay.

MS. KEITT: In terms of the easement issue, again, my understanding is that's not so much a Trustee issue as a private property issue that you don't have to get bogged down in. We were just pointing that out, and as I also pointed out, we are pursuing settlement of that issue and would like to find a spot for the dock to exist, but we are not willing to, you know, take away slips from our dock, which has already shrunk, as you know, to be permitted. And it's been permitted. So I guess my question would be, can the Trustees approve a permit for something that interferes with an already existing permitted structure.

MS. HULSE: I think you just touched on it which is that they can. But this Board has been very sensitive to the issue of what has been going on at Paradise Point and certainly would not want to make a decision that would in any way cause any additional friction. So obviously if it's something that could be reviewed prior to make a decision, and making an informed decision, that would be helpful. However that would not stop the Trustees from acting on this, if they want to do that tonight. If you have a it here for review, it would be helpful. But the Trustees can go ahead and make a decision.

TRUSTEE KING: In my mind this is an amendment to an existing permit that has already been issued.

MS. HULSE: Right. So you can go ahead and approve if you wanted to. But your point is noted.

TRUSTEE KING: I think the big question in my mind is why they call this Paradise Point. That's my question.

MS. KEITT: Unfortunately, we have to deal with it.

TRUSTEE BERGEN: Again, as a reminder. This is not a public hearing. So we have already opened it up to some comment, so I'll allow others to provide comment, but please make it brief.

MR. ZUPA: Very shortly. My name is Victor Zupa. The "T" was turned at the request of the DEC because they felt it would impede less, it would be less of a problem with respect to the association's dock.

Now, Ms. Keitt stated that the other dock was not Moved, but in the present configuration, at the time the permit was issued, the original permit, but in point of fact if you look at the map that was approved, both the association dock and our dock, as approved, are shown on the same map. So that was taken into the consideration by the then Board. That's in the file. If you want I can bring it up, or if you have your copy there.

The other point I want to mention is that the dock

as proposed by us is more than twice the distance from the association dock as the association dock is to our present dock at 365.

TRUSTEE BERGEN: Thank you. Actually, what I'm doing is scaling it out right now. I'm scaling, comparing the October 19, 2005, survey to the February 23, 2009, survey, and the distance between the two docks that we approved back then and the distance between what is proposed for us here tonight, is -- I'm talking within a foot or two identical. So I think it's identical to what we already approved. So I don't think there has been a reduction with this new configuration.

Yes, sir? Introduce yourself first.

MR. BARR: I'm Kevin Barr, I'm a resident of Paradise Point and director of the association. I guess the question for the Trustees is, are you looking at the permit that you are considering granting in consideration of this configuration? Because I don't believe that the dock as they are proposing will allow us to get into these slips. So you are essentially creating the possibility of another problem. And the possibility of yet another lawsuit. Because I don't think that that is possible, because you are considering simply an amendment, you are just creating another problem.

TRUSTEE BERGEN: And correct me if I'm wrong, but I think I just addressed that. What I'm hearing you say is you feel that what we are looking at tonight, as proposed, because of the reconfiguration of the larger dock structure, it's now going to be closer together than what it was when it was originally proposed, and I'm saying I just scaled it out and it's identical. It's not any less, as far as footage between the two, so it shouldn't create any navigational differences.

MR. BARR: I haven't seen the maps. You have to remember, there used to be two association docks. Now there is one. But based on where I have seen the original amendment that the Zupa's proposed, I don't believe that's possible. I guess what I'm questioning is did the Trustees really go out and look at it and consider the navigability?

TRUSTEE BERGEN: Yes, these pictures were taken when we were out there on the site.

MR. BARR: So it's your belief that we'll be able to get boats into those slips with no issue from his dock? Because I don't think that's possible.

TRUSTEE BERGEN: I think it is possible to get an average, when I say average size boat, 20, 25 foot boats in and out of there without a problem. When you say no problem getting a boat in, if somebody tried to get a 40 or 50-foot boat in there, absolutely not. Just like I don't think you can get one around many corners or bends. So I'm not going to agree with the statement we can get any boat in or out of there. But I think the boats I've seen at those docks is 20, 25 foot lengths. I think there is plenty of room to maneuver. Like I said, if we approve the distance tonight it will

be the very same as the distance between the two structures we previously approved.

MS. HULSE: Wasn't the dock that was between that, that was removed, wasn't that situated between the two?

TRUSTEE KING: Yes, it was.

MR. BARR: There was. But there was another dock. There is actually two docks and a broken down dock that was removed. But I really, I guess would just like to go on record representing the association that we object to granting this permit until a further review of navigability because I can assure you it's just going to create more problems.

TRUSTEE KING: This is not a new permit we are granting. This is an amendment to an existing permit. It's already permitted.

MR. BARR: I understand that.

TRUSTEE KING: It's just a modification.

MR. BARR: All right, thank you.

TRUSTEE BERGEN: Just so the Board knows, I measured it out. When I'm talking about the distance between the two structures is 60 foot, That's the distance.

If there are not any other comments, I'll make a motion to approve the amendment to permit 6214 as described.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Number six, Patricia Moore on behalf of **STEVEN & ANDREA KOYLER** requests an Amendment to Permit #5672 to reconfigure the existing dock, ramp and float twenty feet to the north and extend dock five feet seaward. Located: 4075 Paradise Point Road, Southold.

Again, this is not a public hearing. Please make your comments brief.

MS. MOORE: We did meet at the site and there were some recommendations that the Trustees made with respect to moving the structure slightly, positioning a little further to the south away from one property line, and our concern was keeping the proper distance from the other property line. Bob Fox E-mailed me the drawing today. I thought Mrs. Koyler was actually going to be here. Hopefully nothing happened to her. I'll have the hard copies hopefully tomorrow or by the end of the week. She was bringing them with her, so I'm really wondering what happened to her.

If that's -- here, if this helps. You have the original drawing

MR. ZUPA: Could I see a copy?

MS. MOORE: It's my only one.

TRUSTEE DICKERSON: The LWRP has reviewed this consistent. I would like to read some of its comments.

It says achieving greater water depths through the reconfiguration of the existing dock will mitigate the potential impacts from the associated vessel to the

bottom land such as the resuspension of bottom sediments. Further, the use of fiberglass grid material on the catwalk will allow for greater light penetration to the substrate.

I do have two E-mails here, one received on March 10 and one received on March 17, from Victor Zupa. The Koyler dock application presented to you as a modification will be a significant problem for me and others who use this area to turn around and there is no justification for it because the same and greater depths exist at the present dock location. Compare the depths in two attached maps. I have been informed the depths today are basically the same as in 2003. Also there is no justification for having the ramp parallel to the shoreline which causes twice as much space to be taken up as ramps perpendicular to the shoreline and other docks in the basin, including mine.

Again, I don't believe the Koyler's lose anything by keeping the dock in its present location and if permission is given to move it out then the ramp should be built perpendicular to the shoreline and dock. Relocating as per this application will cause significant problems to me and others. That was the E-mail stamped March 10.

March 17, please note the following misleading information shown on the February 10, 2009 map, an application submitted by the Koyler's for their dock amendment. (A), the dock as drawn on the map submitted as shown to be moved 35 feet north rather than the 20 feet requested.

The letter from Pat Moore states that the Trustees are recommending that the proposed dock be moved no more than ten feet southerly from the proposed location which really means the dock is moving 25 feet or more to the north. (B), the map shows two lots owned by the Koyler's when in fact these lots have been merged into one lot. Attached are copies of the records. For the reasons stated in my previous E-mail to you, the Koyler's dock should not be moved northerly from its present location and if it is moved seaward five feet to allow two boats to be docked, that the ramp be place perpendicular to the bulkheads as to reduce the structure's impact on navigation. There is absolutely no reason to move the dock in a northerly direction since the depth in its present location are the same if not more than any location to the north and detriment to navigation will be severe.

We were out there on the very snowy and cold day. And as you can see, we looked this over very careful. I believe the full Board's opinion was that it was of lower depth here and that moving it north would be advantageous, however I believe the full Board felt it was not necessary to move it the 20 feet but that ten feet south would be appropriate.

Is there anyone else here who would like to speak?  
MR. ZUPA: Yes. I'm Victor Zupa. The first thing is I submitted the 2003 survey showing depths where the

dock presently is located. And moving that five feet, the depths are greater than where the Koyler's proposed to move the dock northerly. If you look at that map. Do you have a copy of the map? I have it highlighted.

TRUSTEE DICKERSON: Are you referring to the E-mail?

MR. ZUPA: I have a copy here, if I can approach.

TRUSTEE DICKERSON: I have it. The E-mail of the 17th.

MR. ZUPA: That's the 2003 survey the Koyler's submitted to move the dock out to get greater depth. And you can see there that the waters around where the dock is located, especially if you move it out five feet, are greater than where they proposed to move it now.

Now if the Koyler's want to move the dock out to accommodate two boats, I have no objection to that, at its present location. But what I would request is that the platform and ramp be perpendicular to the shoreline, as ours is, so that the intrusion on turning a boat around is less than before. There is no reason to move that dock down by us.

TRUSTEE DOHERTY: Is this the configuration of your dock?

MR. ZUPA: Yes, it is.

TRUSTEE DOHERTY: This is what they are proposing. So you are just saying the ramp you want --

MR. ZUPA: See the way our ramp comes down. If they would do that here. All they have to do --

MS. MOORE: Since he's drawing on our plan, maybe I should be here.

TRUSTEE DOHERTY: I'm just asking him to explain what he's talking about.

MR. ZUPA: What I'm saying, move the dock out five feet and you get just as much depth if not more depth than you would down here. But since it's going out five feet and since there is difficulty.

MS. MOORE: We want to keep it way from our property line.

MR. ZUPA: Your property line? They are merged.

MS. MOORE: No, they are entitled to be sold single and separate.

MR. ZUPA: I'm sorry, I have the property card and it shows --

MS. MOORE: That's not the issue. We have two lots.

TRUSTEE DOHERTY: We have evidence, we have documentation that it was merged to one lot but it's also --

MR. ZUPA: Here is the documentation, which is both the property card shows it merged, because it fell in the same ownership. They are both --

MS. MOORE: But as you know, the waiver of merger provision, we don't merge properties if they can be, if they are transferable within the same family and they are pre-existing lots.

MR. ZUPA: It doesn't make any difference if it's pre-existing. They were. The undersigned have merged and they have a different tax map number, which is 10.1

MS. MOORE: I don't know if she can make a determination.

TRUSTEE BERGEN: She might not. Let's just wait for her to comment on it. "Her" being Lori.

MR. ZUPA: The property line is not properly shown on the map. The property line is shown here. And the present location, these are the two lots as pre-existing under the '63 survey. If they left the dock at its present location it's not too close to any property line.

TRUSTEE DOHERTY: It's hard for me to tell.

MS. MOORE: We are basing it on the surveyors --

MR. ZUPA: That dotted line on the Fox survey is not the property line.

MS. MOORE: He has to follow -- his obligation is to show the property line.

MR. ZUPA: If you look at that compared to the '63 survey, that's not the property line.

MS. MOORE: That's not really an issue for this Board. It's interesting you would have a complaint about our dock when you just have the same application moments ago. So I would respectfully object to his statements. I think that we have come in with an approvable application and Mr. Zupa has an interesting memory when moments before he was arguing that he should be entitled to expand his permitted dock, and we should not. So I would respectfully request that we stick to the point, that we are asking that the dock be merely moved a small amount to get better water depth. I have a photograph in my file of low tide and how shallow it becomes over there. I would be happy to provide it. I know it was in your earlier files, why we moved it out slightly before. So.

TRUSTEE DICKERSON: We'll check with the Board and see what their desire is. Dave, comments? Jim, comments?

TRUSTEE KING: Like I said, Paradise Cove. My question is, is it one lot or is it two lots? If it's one lot, do you plan on subdividing that?

MS. MOORE: It was always two lots. If it got combined at one point, it will continue. The intention of my client is to have two lots. So we still have two tax bills, we have two tax lot numbers. And the fact that they may be in the same ownership doesn't mean that they have merged. Because we have a waiver of merger provision, exemption from merger, where if the properties are, they can be put back into single and separate name. Right now I think they are in the husband and wife.

TRUSTEE KING: I would like to go to the tax assessor's office and find out exactly what the status is of this lot.

MS. BRESSLER: Mr. Chairman, on behalf of Victor Zupa, I am Eric Bressler. It seems plain from Ms. Moore's comments they are both in husband and wife, they have in fact merged and maybe Ms. Moore is contemplating in the future some sort of waiver of merger, that's for her to take up. But the lots have merged. But we don't think that's the principal issue before the Board. The principal issue before the Board is, is

this the best place for it. And unlike the prior application, and I must correct Ms. Moore, nobody wanted to expand the use. They wanted to "T" off the end as the DEC required. Here, the question is where is the best place. And the best place is if you have room to move it out where you are deeper water depth and it's furthest away from your neighbors. That's the answer to the question. That is the best place for it. And I think that the non-merger is certainly, you know, fits into that, and I think that when the Trustees look at where this thing is and where they can go for deep water and taking into account all the conditions in the creek, the proposal that has been made is not the best proposal. It's just not. You get better water depth --

TRUSTEE BERGEN: If I could ask a question for the applicant. Out in the field, my understanding, the purpose of this was to move the dock so that the applicant could keep a boat on either side, both sides.

MS. MOORE: Exactly.

TRUSTEE BERGEN: So if the present structure was just moved out slightly so that it was deep enough water to reach the intended purpose, and the Board didn't have any issues with that in looking at it, would that satisfy your client's needs?

MS. MOORE: I'm not sure that it would because, again, we want to keep to a proper distance from the second Koyler lot. I think they are trying to use this Board to sterilize a second piece of property that my clients clearly own, pay taxes on and have two separate lots, so.

TRUSTEE BERGEN: So what I'm hearing from you as an important issue here is the feeling this is two separate lots, where you already heard we, in looking at this, considered it as one lot, thinking it had been merged as one lot. I think that's an important issue to be resolved.

MS. MOORE: Honestly, I don't believe this Board had ever considered that issue at all, in any of the applications. This is the first time that it was raised because, so the fact is that we are trying to position, put the dock out far enough so we have proper water, but also position it properly on the property so it's equidistant from both property lines.

TRUSTEE BERGEN: Let me present it a little clearer. I could only speak for myself. When I was out there, the impression I had is we were dealing with one piece of property, not two lots. That's number one. Number two, the impression I had, again, was the purpose of the application was so that a dock was out far enough so your client could have a boat on either side.

MS. MOORE: To be honest, I'm not sure that impression was accurate by you at the time because we have two separate tax lot numbers. So I don't know that, you know, it looks like all one piece because it's all cleared as a private land holding, waterfront land holding. But clearly they have intended to keep them

as separate lots.

MR. BRESSLER: Could the Board put a question to Ms. Moore? Are both lots held in similar ownership?

TRUSTEE DICKERSON: What I would like to propose is that we table this so the legal issues can be looked into, also so we could look at other options, look at the depths and make a better decision. So my motion is to table.

MR. BRESSLER: So the hearing is open. We would like to submit the deeds.

TRUSTEE KING: This is really not a hearing.

MS. MOORE: It's an amendment to a permitted structure. Exactly.

TRUSTEE KING: But I agree, I would like to hold off on this and do more research. The plans submitted with this application didn't show all the depths of water. There was more water --

TRUSTEE DICKERSON: Pat, do you see what we are saying? The depth around this facility, we would like to see the depths. You provided these depths. We would like to see the depths.

MS. MOORE: I think it's in your files in these applications. You want it all on the same one?

TRUSTEE DICKERSON: Yes. We would like to see all of them.

MS. MOORE: We'll have Bob superimpose.

TRUSTEE KING: That didn't indicate the actual depth of the water. Near the dock is even more than what you are proposing to put the new one.

TRUSTEE DICKERSON: So that's what we would like to see.

MS. MOORE: Okay, I'll have that done. Obviously that's a new request. We would have had it done for you.

TRUSTEE DICKERSON: So I'll make a motion to table.

TRUSTEE KING: Second. All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll make a motion to go off our regular meeting and go on to public hearings.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

## **VI. PUBLIC HEARINGS:**

### **WETLAND PERMITS:**

TRUSTEE GHOSIO: Number one, **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.

This is a continuation of a hearing we had last month. The question that came up at that time was whether or not the addition would go past the most

seaward extension of the houses to the east and to the west of the house in question.

At the time I had pointed out if you drew a line from the most seaward end of those two houses, that the extension would more than likely fall within the parameters of our code. We of course really couldn't tell for sure based on aerials, so we asked the applicant to go back and have a survey done with that line drawn with that line drawn, and they have submitted that. (Perusing.)

TRUSTEE KING: I think the deceiving part of it is those two houses on either side are set on such an angle that when you are in the field it sure looks like --

TRUSTEE GHOSIO: When you are out in the field and actually standing on site it does have kind of an optical illusion.

(Board members perusing map.)

TRUSTEE GHOSIO: Is there anybody here who would like to address this application?

MR. SCHEMBRI: I'm Pete Schembri. I'm hearing comments. Hopefully everything is okay.

TRUSTEE GHOSIO: Is there an opportunity to maybe shrink it a little bit, maybe further away from that line?

TRUSTEE DOHERTY: Maybe make the proposed addition equal to the proposed deck? I don't know how many feet that is.

TRUSTEE GHOSIO: Looks like it would be two feet, according to this.

MR. SCHEMBRI: If that's what the Board would like, you know, I don't have a problem doing that.

TRUSTEE GHOSIO: The applicant is open to reducing the size of the proposed addition down to 16 feet.

TRUSTEE DICKERSON: I would be more prone to approve a reduced structure.

TRUSTEE DOHERTY: From 18 to 16. It's 18 and make it even with the deck.

TRUSTEE GHOSIO: That brings it back further from the line.

TRUSTEE DICKERSON: It brings it in line with the deck, as Jill is saying.

TRUSTEE KING: Is the deck downsized at all or is that the same?

TRUSTEE DOHERTY: That was the same. That one corner of the deck is the only part that is sticking out further than the line. I don't know if we are so concerned about the deck as we would be if --

TRUSTEE KING: Is it ground level?

TRUSTEE DOHERTY: It's ground level, yes. I'm okay with that.

One thing, Bob, these plans, the wood deck on the bluff, I believe that's going to be done?

MR. SCHEMBRI: We are not doing that.

TRUSTEE GHOSIO: That's being eliminated from the plan.

TRUSTEE DOHERTY: So we need a revised plan showing the two foot difference and the removal of that deck.

TRUSTEE GHOSIO: Yup. Okay.

TRUSTEE DICKERSON: It would make it more consistent.

TRUSTEE KING: Anybody into the, on the top of the bluff, having a buffer?

TRUSTEE GHOSIO: There was a buffer there.

TRUSTEE DOHERTY: I think it was there. But not the neighbors, didn't.

TRUSTEE KING: All right, there is no mention of plantings in the application is there?

TRUSTEE DOHERTY: Is there a buffer there now?

MR. SCHEMBRI: Yes, on the, it's all shrubs.

TRUSTEE DOHERTY: Do you recall the width of that?

MR. SCHEMBRI: It's like, well, it goes to the end where the proposed extension is. It's like four, five feet wide.

TRUSTEE KING: On the top of the bluff, on the seaward side, on top of the bluff.

MR. SCHEMBRI: Oh, on the bluff. I brought a sample. It's all like bamboo and stuff like that. It's real thick. The whole cover is thick, thick.

TRUSTEE DICKERSON: It should be in the file.

TRUSTEE KING: I didn't see it.

TRUSTEE DICKERSON: I thought there was a buffer in line with the deck.

TRUSTEE GHOSIO: There is a buffer in line with the deck on top of the bluff.

TRUSTEE DOHERTY: So we can say for that buffer to be maintained.

TRUSTEE KING: As long as that's maintained. What does that deck measure now?

TRUSTEE DOHERTY: Which deck are you talking about?

TRUSTEE KING: The one on the bluff.

TRUSTEE GHOSIO: The deck that is on the bluff now?

TRUSTEE KING: (Perusing.) He's talking a buffer this width. Oh, that's not what is there.

MR. SCHEMBRI: Yes, I'm not going to put that. It was just a stairway, staircase that's there already.

TRUSTEE KING: You don't have any idea the dimensions of the deck that is there now?

MR. SCHEMBRI: I was just repairing what is there.

TRUSTEE KING: You don't know what the dimensions of that deck that is there now?

MR. SCHEMBRI: I think it's eight by nine, eight by ten.

TRUSTEE GHOSIO: Here it is. It's a fairly good size.

TRUSTEE KING: That's what I'm saying, put it on the plans as a non-turf buffer then it's there and it will be maintained. Because he'll have to bring in a new survey with the different dimensions on the house, so just draw in that ten-foot buffer and whatever it measures out to.

TRUSTEE GHOSIO: All right, I'll make a motion to approve --

TRUSTEE KING: Are there gutters and leaders to drywells on that house now? I'm just thinking drainage. Gutters and leaders?

MR. SCHEMBRI: Yes.

TRUSTEE GHOSIO: That's already addressed. It's not there currently but it's part of our recommendations.

TRUSTEE KING: We need to see that, too, on the plans.

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

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE GHOSIO: All right, so I'll make a motion to approve the application with the stipulation that the new extension or the new addition, is reduced to 18x16; the 16-foot side being the side that is going seaward to bring it in line with the planned deck, and that's all predicated on resubmission of plans that show that change as well as the dimensions of the existing deck at the top of the bluff, and show a non-turf buffer equivalent to what is there on those plans as well. And update the drainage to meet the Chapter 236 in the Town Drainage Code. I think that's the whole thing.

TRUSTEE DOHERTY: Second.

TRUSTEE GHOSIO: And in doing so it will bring it into compliance with the LWRP.

TRUSTEE KING: And the non-turf buffer and the drainage.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: Number two, **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.

We have all been out to this site several times and we have had the hearing once and it was tabled because there were suggestions from LWRP and CAC, and we are trying to meet with the applicant.

We have, I have verbally relayed the suggestions to them. However, they did receive their DEC permit and, which is the same as what has been applied to for us. CAC had tabled it for a comprehensive engineer plan for the mouth of the creek, which the county is reviewing dredging that creek. As we speak, they are going through that process. And it is exempt from LWRP. However, to use the best management practices of a silt curtain during construction.

Is there anybody here to speak on this application?

(No response.)

Any Board members have any comments?

(No response.)

The survey, do you want to take a look? It's basically in place. Hearing no comments, I'll make a motion to close the public hearing.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: I'll make a motion to approve the application of Mary Raynor as applied for with the condition of a silt curtain to be used during construction. Do I have a second?

TRUSTEE KING: Second. All in favor?

(ALL AYES.)

TRUSTEE KING: Number three, 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' on center, 3x15' metal ramp and a 6x20' floating dock affixed to two ten-inch diameter piles and in place replacement of 125' of bulkhead and 37' return landward of high-water. Located: 1035 Calves Neck Road, Southold.

MS. MESIANO: Catherine Mesiano on behalf of the applicant. I believe at our last hearing the Board had requested that we modify the existing configuration of the existing bulkhead in our proposal to reconstruct and eliminate the angle to the bulkhead, and the Board -- TRUSTEE KING: I'm looking at the plans, Cathy, looks like everything has been done that we talked about at the hearing.

MS. MESIANO: Right. And there is a question I want to raise to you. I'm trying to be preemptive. I went back there again today and looked at the neighboring property. And I'm wondering what you think the impact to the neighboring lot might be if this plan is executed. That's my concern. I took a number of photographs of the neighboring dock and I just have one set. I have them printed out. My concern is to be the integrity of that property, because it's eroding. If you don't mind I'll, I don't have a copy, I don't have much of anything because I just did them this afternoon. This probably is, this is from the farthest side of that neighbor's property looking back, and up in this area is their slope, and basically it's somewhat eroded. It's filled with leaves. Sorry, it just was very difficult to give you a good perspective. This may do it. (Handing). My concern, I'm not arguing your point, but my concern is to the impact to the adjoining property. This kind of tells the story. Here is our existing return and this is the area on their bank. I don't know that I would call it a bluff. Here, this is --

TRUSTEE KING: I would be inclined to say it's naturalized. This has probably caused a lot of problems in this area itself, because of it. I think this has caused problems up in here.

MS. MESIANO: It's hard to, normally I would agree because where the structure stops you do get that swirl. It doesn't have that appearance to it.

TRUSTEE KING: It looks like they are trying to put fencing down or something to stop the erosion. It's some kind of fencing in there.

MS. MESIANO: It's some kind of fence in there.

TRUSTEE KING: One of the hearings we had, I remember one of the neighbors came in.

MS. MESIANO: That was the neighbor on the other side.

TRUSTEE KING: Because he was complaining this was causing erosion for him, where the bulkhead was.

MS. MESIANO: And here is an aerial. This is our --

here is our property. This is the neighbor. This is Al Koke, who came in. This is the corner that we are concerned with. And I don't think this does any of us any good. I mean --

TRUSTEE KING: I, myself, think it will just naturalize. I think it will cause more problems than this will create by removing it.

MS. MESIANO: Because that has been my issue. Once I saw that map. Then my --

TRUSTEE KING: Can we keep these pictures?

MS. MESIANO: Yes. Really that's my primary concern, and I'm sorry to say I did not bring my scale with me. I usually don't leave home without it. And I don't have a measurement on that area. But that's my concern. But I suppose if this can be taken out without moving --

TRUSTEE KING: Do you want to borrow this one?

MS. MESIANO: Yes. It's about 20 feet that you are calling for removal. And I would just like to not close the door to being able to come back to you if in the event this is started, and it looks like it's going to cause a problem with the neighbor's property. That's, you know, that's really my concern. Because of the precarious condition of that property. And if we can bring it back to that point. If this survey, and it should be accurate, the photograph that I took standing on the eastern portion of the neighbor's property, looking back at our return, at the fourth piling inland, is where this would be cut back to. If I could look at that. See what I'm doing, I'm counting pilings back. And if we look at the photograph.

TRUSTEE DOHERTY: Four would be here. (Indicating). That's what I was just saying to Jim.

TRUSTEE KING: Stop at the third pile.

TRUSTEE DOHERTY: That would put it in line with the existing bulkhead here and it would go straight across. Instead of making it like we wanted it, just follow the existing bulkhead and go straight across and that would be bring it to approximately the third piling.

TRUSTEE GHOSIO: I see what you are saying.

TRUSTEE DOHERTY: We had her go this way and follow this existing bulkheadline. That will give it that much more and probably make it even with the neighbor.

TRUSTEE KING: Back it up to there instead, that's what we are thinking.

MS. MESIANO: Okay. If you look at the high water mark on here, because you asked for the neighbor's high water marks, that is what raised my concern. So I just didn't want to blindly accept it, anticipating that it may cause a bigger problem down the road.

TRUSTEE BERGEN: That makes sense.

TRUSTEE KING: I don't agree with this here. I think it should come up from right here.

TRUSTEE DOHERTY: I think so, too, but I also don't have a problem --

TRUSTEE KING: Just look at this one rack line. It's much further landward. That's not a huge storm rack

line. I would be comfortable with just going into that third pile.

MS. MESIANO: Could you sketch on that and give one of them back to me so I could go to the surveyor.

TRUSTEE KING: (complying.) How does that look?

TRUSTEE DOHERTY: Good.

MS. MESIANO: (Perusing.)

TRUSTEE KING: This was found inconsistent in the LWRP.

MS. MESIANO: But of course. But now we have done all these wonderful things and we'll give you plantings and all sorts of things.

TRUSTEE KING: We are actually restoring the wetland area, which I'm very happy to see.

TRUSTEE DOHERTY: That would bring it into consistency.

TRUSTEE KING: I'm looking for CAC comments.

MS. MESIANO: My only other request would be if we could conclude this matter pending my submission of the corrected and revised maps so we don't have to do it again next month.

TRUSTEE DOHERTY: Are you trying to tell us something.

TRUSTEE KING: CAC resolved to support the application, no portion of the bulkhead to extend beyond the mean high water mark. We addressed a lot of that by backing the bulkhead up. Did you see the new plans, Jim, the new plans?

MR. MCGREEVEY: Yes.

TRUSTEE KING: Dock doesn't exceed one-third. Eight-inch pilings replace with 4x4 posts. Usually we only go with 4x4 posts through a vegetated wetland and then go to either six or eight-inch piles in the water area. I think it's proposed for eight inch. Or was it six inch we talked about?

MS. MESIANO: You said eight-inch pile and the eight-inch -- I'm sorry. Let me point out one thing. You requested six-inch piles on the dock and what we added were two eight-inch piles off the dock so as to be able to secure the boat.

TRUSTEE KING: Tie off piles. We never talked about tie off piles.

MS. MESIANO: We didn't. But after we looked at it again.

TRUSTEE KING: We have been staying away from these tie off piles, Cathy, because they take up so much more of the public property. What we are looking into, I don't think I have it with me. I found a brochure. We just had an application in Mattituck Creek that is postponed because I think they are going to try them. They are called slide moors. Just to give you an idea of what it is, I think it's something we should all be considering. It goes right, the piles go right tight to the float and the boat is tied to this sliding affair so it holds the boat.

MS. MESIANO: So it acts as a floating dock all by itself. That's a great idea.

TRUSTEE KING: We are kind of looking away from these tie off piles that are 20 or 30 feet away from the float. So I would be inclined not to approve the tie

off piles at this point in this application.

MS. MESIANO: We'll just eliminate it then.

TRUSTEE GHOSIO: You could use those.

TRUSTEE KING: We'll look into it. We are in the process

MS. MESIANO: Don't forget, I was the one that designed the first open grid dock, so I'm open for some innovation. I would like credit for something in this lifetime.

TRUSTEE KING: We'll credit you for being consistent. How is that?

MS. MESIANO: That's one of the nicer things you said about me. That's the nicest thing anybody ever said about me.

TRUSTEE KING: I think we've addressed everything on this application.

MR. MCGREEVEY: Jim, there was a question raised by Doug Hardy who seems to have an insight into his question here on what meets the definition of a low sill. Is there a definition of a low sill that I could make a notation on?

TRUSTEE KING: Low sill is, it floods twice a day with the tide. In other words, they usually put them almost at half tide, so it gives you the opportunity to have deep water in front of it where your vessel is but it also gives you a little opportunity to have wetland behind the bulkhead. There is a couple in Mattituck we put in and they turned out great. You have wetland behind the bulkhead.

MR. MCGREEVEY: Where is that definition to be found?

TRUSTEE KING: I don't know if it's in our definitions or not.

TRUSTEE BERGEN: The definition is listed in 275/2 of a low sill bulkhead: A sub-tidal structure designed to stabilize the slope or shore often associated with boat basins or other navigable waterways. So a sub-tidal structure so that during, as Jim alluded to, as the tide comes in, the water can go over the top of it, yet structurally it stabilizes the bank.

TRUSTEE KING: And allows you to have deep water on the other side of the bulkhead. It's kind of a win/win situation.

TRUSTEE KING: Any other comments?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

I'll make a motion to approve the application based on the new drawings that we'll be getting and make a motion that it comes into consistency. We moved a lot of bulkhead area and we restored a wetland area. And I think the dock is the open grid type. I think a silt boom during construction. Do we have a non-turf buffer along the bulkhead?

TRUSTEE DOHERTY: Yes, because of the two tier.

TRUSTEE KING: Between the upper and lower.

MS. MESIANO: Yes, we talked about ten foot last time.

TRUSTEE KING: Okay, I think that covers everything.  
TRUSTEE DICKERSON: Second.  
TRUSTEE KING: All in favor?  
(ALL AYES.)

TRUSTEE GHOSIO: Catherine Mesiano on behalf of **THOMAS & JOYCE MESSINA** requests a Wetland Permit to construct an inground gunite swimming pool at grade located 79 feet from the top of the bluff, pervious patio on grade and pool mechanicals enclosed in sound-deadening cover landward of the proposed pool. Located: 1690 The Strand, East Marion.

I was out there and I have seen this. The CAC has resolved to support the application with the condition that drywells are installed to contain the pool backwash. LWRP finds it to be inconsistent. The distance from the natural protective feature to the proposed action is approximately 71 feet. The minimum setback distance of 100 feet from the bluff line is required pursuant to Chapter 275-3.

If the Board of Trustees makes a contrary determination of consistency, the agency shall elaborate in writing the basis for its disagreement with the recommendation pursuant to 268 Waterfront Consistency Review.

I was out there. I did measure it. And with a consultation to the LWRP coordinator we found it to be 79 feet. I had a question about the dip that goes before the bluff, so the top of the bluff line, so we agreed that 79 feet was right.

MS. MESIANO: Bob, if I could just interrupt you. I know there was a lot of snow on the ground the day you were out, and the property actually terraces upwards away from the house. You have a flat area, it comes up and it comes up again.

TRUSTEE GHOSIO: Actually, I saw it after the snow. I went back afterwards.

MS. MESIANO: I went back to stake it and I got stuck in hip deep snow one time, and I don't do that anymore.

TRUSTEE GHOSIO: Yes, it was not staked but it's evident where it's going to go. I didn't want to hold it up because of the snow.

MS. MESIANO: I appreciate that.

TRUSTEE GHOSIO: That's pretty much it. Is there anybody else who would like to make a comment or have a question about this application?

MS. MESIANO: For the record, the Zoning Board approved this application at the 79-foot setback with the reduction in the overall area of the pool that went from a 20x30 to a 30x16, so we are reducing the lot coverage as well. With respect to the drywells, we were able to speak to the contractor who installed the drainage initially and there is a very large drywell in the front yard with some extensive piping running to it. And we find that we are able to tie into that so as not to have to actually excavate for a new drywell, but to tie in. Because I think it's at least ten feet

-- the drywell in the front, is at least ten feet deep. So it will be ample.

TRUSTEE GHOSIO: It shows ten foot diameter by eight feet deep. Does anybody have a problem with that, tying into the existing drywell?

(No response.)

I don't either. Any other comments, questions?

(No response.)

I make a motion to close the hearing.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MS. MESIANO: Thank you, gentlemen, and ladies.

TRUSTEE GHOSIO: I would like to make a motion that we approve this application to build 16x30 foot pool 79 feet from the top of the bluff, noting that there will be piping made to the existing drywell for the backwash and that by doing so it will help mitigate, bringing it into conformance with LWRP. And that's basically it.

MS. MESIANO: You might want to add, too, the reduction in the size of the pool mitigates the lot coverage and that might benefit as far as the LWRP's concerns.

MS. HULSE: Can I interject. I think Bob said 16x30. Is it 16x30 or 20?

MS. MESIANO: 16x30. We reduced the 20-foot dimension to 16.

TRUSTEE GHOSIO: Also noting for the record, I did notice that it does slope well upward toward the bluff line from the house, so there is no issue in terms of erosion due to this, putting this pool here. And that is my motion.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: Number six. Patricia Moore on behalf of **ROBERT & SUSAN TOMAN** requests a Wetland Permit to construct a 4x40' dock 3.5' above grade, a seasonal 3x12' ramp and a 6x20' floating dock. Located: 3795 Main Bayview Road, Southold.

The Board did go out and look at this. Now, a little history here. That the Board had issued a permit.

MS. MOORE: February 15, 2006.

TRUSTEE BERGEN: Permit #6306, on February 15, 2006, for a dock, catwalk, ramp and dock. And the floating dock went straight out. That permit has since expired, but during this period of time, the applicant has been to the DEC and received a DEC permit that modifies the dock to an L-shaped dock at the end rather than the straight-out floating dock. So they are coming before us now, once again, for a permit, since the old one has expired, with a dock that, the difference between this proposed dock and the one that was previously approved is this is L-shaped as depicted on the plans dated 2/3/09.

MS. MOORE: There is also another improvement, which is

it's open-grate material.

TRUSTEE BERGEN: Okay. The CAC resolved to support the application under the condition that it does not exceed the one-third rule across the creek, and I'm looking here and I don't see in this file an LWRP review of this application. Lauren, did we receive one for this application? I don't see one in the file here. There is an LWRP application.

MS. STANDISH: There was one in the original file.

TRUSTEE BERGEN: There was one in the original file that went with the original permit. My question for legal counsel, there was an LWRP review under the original structure as submitted. That permit is expired. We don't have an LWRP review under this application. Do we need one or can we use the one under the previous application?

MS. HULSE: This is a different application, isn't it?

MS. MOORE: For the most part it's the same plan. The only difference is actually a reconfiguration of the float so it's parallel to the shore. But the same structure.

MS. HULSE: My sense would be that you need an LWRP but if you really feel it's so minor that it's exempted. I mean you need an LWRP. I mean, clearly. That's the technical answer, yes, you do need it.

TRUSTEE KING: Was there any consideration to move it landward into that, away from the property line?

MS. MOORE: Yes. I spoke to Karen Gerolick (sic) who was the person who ultimately I worked with at DEC to get this permit, and she said that was fine, so if the Board wanted to recommend, I was going to leave it to you to tell me where rather than me guessing. I had drawn something up that was moved over a few feet over. But I said I would, you know, first I would come to the Board, get whatever it is that you wanted, and my client had no problem with this and the DEC apparently has no problem with this.

TRUSTEE KING: I would be more comfortable getting that landward in more. By code it's supposed to be 15 feet. Make it better than it was.

MS. MOORE: 15 feet is quite a bit. I don't know if -- go ahead, sorry.

TRUSTEE BERGEN: If I could. The plan that I have here, February 25, 2009, shows that the seaward end of the float is more than 15, just more than 15 feet off the property line, but the catwalk begins approximately six feet off the property line. If the catwalk was moved over to 15 feet, then the float remained at least 15 feet out, would that be okay with your client?

MS. MOORE: I don't know how that -- I don't think that was a problem. 15 feet, the width of the dock is four.

TRUSTEE KING: I think just canting that landward.

MS. MOORE: We are bringing the whole thing over, so in a sense it's making the ramp kind of hit either midway on the float or a little to the right end of the float. I was not sure, when I scaled it, I can draw it right so it looked, you know. So I know there is an

opening in the vegetation, so we want to keep within that area and I think we moved the dock over ten feet from where it is, brought it to the 15 feet. It's, see it's open right there.

TRUSTEE DICKERSON: Yeah, but, Pat, I don't think you have to move, if you angle that catwalk you don't have to move it where it will end up on the ramp.

MS. MOORE: If you have a straight, you have this going like that right now. If you move this over, you are actually talking about straightening out the landward end. So it's going to be on an angle when it hits the float. I'm trying to make it so it stays parallel.

TRUSTEE DICKERSON: I know what you are saying. It doesn't look like that to me on the plan.

MS. MOORE: You were talking this end, moving it over 15 feet.

TRUSTEE BERGEN: Actually moving it about ten feet. It's currently six feet, so nine feet over. Then you can leave the float just the way it is.

MS. MOORE: I was not moving the float.

TRUSTEE BERGEN: That's what I was trying to say before.

MS. MOORE: I'll have to figure out from Bob Fox how it positions itself so it's perpendicular to each other.

TRUSTEE KING: This is a seasonal float?

MS. MOORE: Yes.

TRUSTEE BERGEN: Yes, described as seasonal catwalk and float.

MS. HULSE: Dave, apparently it was submitted to LWRP. I didn't realize that. He chose not to review it or to respond at this juncture. It's been less than 30 days but apparently he has not given a review of this specific application, but he did receive it, so.

TRUSTEE DOHERTY: He did make a comment to us that there was one that had --

MS. HULSE: I didn't realize that had happened.

TRUSTEE DOHERTY: I didn't know that was the one. But he did make a comment saying there was one that was previously approved so he was not going to.

TRUSTEE KING: I don't have a problem with this application as it's been made. That was my only concern. And the fact that it wouldn't exceed more than one-third, including the boat now. Now that it's parallel to the shoreline.

MS. HULSE: For the record, LWRP has had this for almost 30 days for consideration and has chosen not to review it.

TRUSTEE BERGEN: Okay, thank you.

MR. MCGREEVEY: Jim, one other concern on the CAC part, was with the one-third rule. Was the width of the boat at the end of the dock taken into consideration?

TRUSTEE KING: That's what I just said. That includes the vessel. The one-third rule is not just for the structure. It also includes the vessel on that structure. So you might have a boat in there with an eight-foot beam, that's fine. If you have a 12-foot beam, you'll have a problem.

MS. MOORE: So I'll have it drawn and submitted. The water depth in this area isn't that great, so.

TRUSTEE KING: Is that private bottom? I think that changes from public bottom to private somewhere in that area.

MS. MOORE: In fact his title goes way into the canal. So neighbors have tried --

TRUSTEE KING: I know it makes a transition from public lands to private lands.

MS. MOORE: On the survey it shows our deeded rights go all the way.

TRUSTEE KING: That's what I thought.

TRUSTEE BERGEN: Okay. Is there anybody else in the audience who would like to comment on this application?

(No response.)

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 Robert and Susan Toman as described at 3795 Main Bayview Road with the condition that the catwalk or the landward end of the catwalk which is presently on this survey dated February 25, 2009, listed as six feet off the property line, meaning the western property line, that it be moved so that it's a total of 15 feet off that property line. Open-grating material as described in the application will be used. Best management practices will be used during the construction of this dock. That's my motion.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: Should we put the one-third rule in the resolution? Not to exceed one-third across the creek, including the vessel?

TRUSTEE BERGEN: Okay.

MS. MOORE: You do realize that --

TRUSTEE BERGEN: Hang on. Let me make a motion first off to reopen the hearing of Robert and Susan Toman.

TRUSTEE DOHERTY: We don't have reopen the hearing.

TRUSTEE BERGEN: It sounds like we are about to take testimony. If we are about to take testimony we'll have to reopen the hearing, right?

MS. HULSE: Yes.

TRUSTEE BERGEN: I make that motion.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MS. MOORE: For the record, so you understand, this piece of property, to the, that is almost at the end of the canal, okay. There is, there are two docks and that's it, and my client owns into the waterway almost to where the dock across the creek is actually just up to almost his property line, within a few feet of his

property line. So your one-third rule, we have a 60 foot, we have to stay, the float could not go out more than 20 feet, which is what your Board had required and the DEC required. But, and I don't think it's a big issue because I don't think you can have a large boat in this area. They are mostly outboard motors and there is relatively small boats, but I just don't want to have my client in an issue over an inch or so we have problems when he is in fact almost the dead end, and it's all his property. So, it's not an issue of navigability where you might have issues in other areas you would have concerns. We are the end, the end of the line.

TRUSTEE KING: By code, it's one-third, and it's not based on ownership of the bottom it's based on navigation.

MS. HULSE: It's just based on the one-third. Doesn't have anything to do with navigability. I mean there is a reason behind it. It's in the code. If you are more than one-third you are automatically in violation.

MS. MOORE: I don't think the code says boat and dock. I think it says your dock can't extend more than a third.

MS. HULSE: No, that's not right. It doesn't.

MS. MOORE: I'll go back and look.

MS. HULSE: It does say boat and dock.

MS. MOORE: I'll stand corrected. See if you could find it.

TRUSTEE BERGEN: 275-11-B(2) within creeks and narrow waterways no dock length shall exceed one-third of the way across the water. The length of the dock must include the dimensions of the vessel.

MS. MOORE: Okay, so I stand corrected. I live and learn.

MS. HULSE: Can I get the minutes on that, Wayne?

MS. MOORE: You're like my husband. You are wrong once.

TRUSTEE DOHERTY: So we don't need to put it in the motion. It's in the code. Do we need to make it a condition of the permit? It's in the code.

MS. HULSE: You don't need to make it a condition but you were doing it as a courtesy. It's consistent either way you want to do it.

TRUSTEE BERGEN: So the motion stands and the vote stands. We don't have to do a new motion to approve.

MS. MOORE: I'll warn him don't get a big boat. I don't think that's an issue.

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

TRUSTEE DOHERTY: Second.

TRUSTEE KING: It's better if it's in the permit itself. Then they are on notice, if it's in the permit then they are in violation of the permit plus the town code.

TRUSTEE BERGEN: So we had a motion to close the public hearing and a second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE BERGEN: Then I'll make a motion once again to

approve the application of Robert and Susan Toman as depicted at 3795 Main Bayview Road with the conditions that we already stated, specifically that open-grating material be used, the best management practices be used in the construction of this dock; that the seaward end of the dock move so that it's presently -- sorry. The landward end of this dock as depicted on the survey dated February 25, 2009, is moved from six foot off the northwestern property line to 15 feet off. Which is a total of 15 foot off the property line, and that the ramp and float and dock does not -- excuse me -- ramp, float and boat does not exceed one-third of the way across that waterway.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Number seven, 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 and first-floor joists; raise the existing dwelling by 16" by the addition of two courses 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.

Is there anyone here who would like to speak to this application?

MR. ANDERSON: Good evening. Bruce Anderson, Suffolk Environmental Consulting on behalf of Robert Swing. With me tonight is Robert Swing and also his architect Frank Notaro. This is an application that this Board already approved once. In that application it was for an additional landward side. It was to remove the existing septic system. It was to install a new compliant system, compliant with the requirements of the Department of Suffolk County Health Services. We also obtained permits from the DEC as well as a zoning variance to do this. We then moved into a sort of design phase, having established a footprint and location for this, and it was discovered that -- two things were discovered. Number one, that we would have to do certain things to bring this building into compliance with the flood plane. And that's where you see the raising of the building by what is essentially

two concrete blocks. The interior cavity would then be filled so that structure would be safe from floods. Mr. Notaro, who inspected the property, and noticed there was some rotting on the sills, which entailed more structural type work than originally disclosed to this Board. I recall being here on another completely different application that had nothing to do with where someone had proposed to put a second floor in and by the time they got ready to put a second floor in, about all that was left was a floor and a chimney. And what seemed to be almost an endless debate on what a floor is and what a wall is, et cetera. So we brought this application to you to avoid that sort of situation. The location is exactly the same. The size of the building is exactly the same. What we do want you to be familiar with is some of the problems were encountered when we went to actually implement our project. That's why we are here today.

TRUSTEE DICKERSON: Thank you. CAC supports the application with a condition the dwelling is reconstructed on pilings because of potential flooding in the area. You addressed that with the cement block feature.

MR. ANDERSON: Well, it's a block feature. You would not put it on piles but it achieves the same purpose because we have to allow for the flow through the structure. It's a code requirement.

TRUSTEE DICKERSON: Okay. LWRP reviewed it as consistent. The proposed action of Wetland Permit #6978 was determined to be inconsistent because the landward addition of the existing dwelling is more than 25% and therefore the amendment is inconsistent. Furthermore, the distance from the bulkhead to the proposed action is approximately 60 feet. Minimum setback of 100 feet from the wetland boundary is required.

TRUSTEE KING: You say you have Zoning approval on this?

MR. ANDERSON: Yes. And the prior, same sorts of objections were made in the prior application and they were addressed based on our willingness to install various drainage improvements, which we are still agreeable to do.

TRUSTEE DOHERTY: Do you plan on, I see you have an outside shower. Do you plan on hooking that up to the drywells?

MR. ANDERSON: Surely. We'll comply in all respects with the town drainage code.

TRUSTEE DOHERTY: You are doing it all, you may as well.

TRUSTEE DICKERSON: Hay bales and silt fence, that's on the plans. Any other comment from the board.

TRUSTEE KING: Where is the present septic, do you know?

MR. ANDERSON: The present septic --

MR. SWING: It's in the front of the house. The only thing that is there is a holding tank. That's why we are trying to get through the Health Department. It's

been a mess.

TRUSTEE DICKERSON: Any other comments?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Having no further comment from the Board, and since there are hay bales and silt fences on the plans and the drainage concerns have been addressed, which will comply with Chapter 236, I will make a motion to approve the application as stated.

MR. MEYERHOLZ: Can I ask one question, please? You didn't ask if there were questions from the audience.

TRUSTEE DICKERSON: I have to make a motion to reopen the public hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. MEYERHOLZ: My name is Richard Meyerholz. We are the property owners to the north side of the Swing property. I just have two questions. One is the second story, which is a new addition to the original proposed application. There is nowhere on the drawing saying where the location of the second story is going to be. Is it in the center of the property, northbound, southbound? Have you made those determinations?

MR. ANDERSON: There is a loft area over the existing shell --

MR. MEYERHOLZ: Sorry?

MR. ANDERSON: There is a loft area over the existing shell which the pitch of the roof will change, become somewhat slightly seaward, and the addition is behind this.

TRUSTEE DICKERSON: Have you seen this?

MR. MEYERHOLZ: No.

TRUSTEE DICKERSON: If you want to come up and take a look at it.

MR. MEYERHOLZ: So this is to the front -- the architect is here, I assume. If I could just ask you a question.

TRUSTEE DOHERTY: If you ask it up to us, please.

TRUSTEE DICKERSON: This is the west elevation, so that's facing the road.

MR. MEYERHOLZ: There are two roads. This is facing the road, okay. There is a back.

TRUSTEE DICKERSON: No, the top is east.

MR. NOTARO: So it's essentially a second story. It's a loft. It's open to below.

MR. MEYERHOLZ: So the top elevation, the interior will be up, I guess a four foot knee wall on either side of the east and west walls will be a new wall, then a cathedral of sorts on the second floor?

MR. NOTARO: You are welcome to look at the floor plan. It's better to show you a picture.

MR. MEYERHOLZ: One of the questions, it's a concern to me, I just need clarification. It's not a concern. We also have plans in the future of also developing the

property next door and what I don't know is how the Board would react to a similar request from the property owner adjacent and would there be an issue with two properties adjacent that have a loft type system, because this is a similar design.

TRUSTEE DICKERSON: Our concern is not the height. That's a Building Department concern.

MR. MEYERHOLZ: So there would not be any consideration from the application process.

TRUSTEE KING: Our concerns are septic setback, drainage issues. That type of thing. Not the height or what color it's painted.

MR. MEYERHOLZ: Okay, that's fine.

MR. NOTARO: This is actually considered a one-and-one-half story in the town. Two story is where the walls come straight up. And it's well within the height limits.

TRUSTEE DICKERSON: Do you have any other questions? (No response.)

I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DICKERSON: Motion to approve as previously stated.

TRUSTEE GHOSIO: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE DOHERTY: En-Consultants on behalf of **ROSE L. MILAZZO REVOCABLE TRUST** requests a Wetland Permit to construct approximately 52 linear feet of vinyl bulkhead in place of existing timber bulkhead and backfill with approximately five cubic yards of clean sand to be planted with *Spartina patens* (18" on center) to re-establish approximately 189 square feet of high marsh; and construct approximately 36 linear feet of low-sill vinyl bulkhead between two bulkheads and backfill with approximately five cubic yards of clean sand to be planted with *Spartina alterniflora* (12" on center) to create approximately 137 square feet of intertidal marsh. Demolish and partially reconstruct (inplace and raised to FEMA-conforming F.F.E.L.10') existing one-story, one-family dwelling (footprint downsized by approximately 12 percent); construct 854 square feet two story addition onto landward side of reconstructed one-story dwelling; construct 214 square feet attached deck; install drainage system of drywells, leaders and gutters; remove existing sanitary system located +30 from the wetlands and install upgraded sanitary system whose leaching pools will be located more than 100 feet from the wetlands; install new pervious gravel driveway; and establish an 850 square foot non-turf buffer adjacent to the wetlands. Located: 1165 Island View Lane, Southold.

The LWRP finds the bulkhead exempt and the low sill bulkhead to be consistent. I don't see anything

as far as the house, though. And they just request to use the best management practices with the silt boom prior to construction. CAC supports the application with the condition that the closed low sill bulkhead meets the definition of "low sill." Is there anybody here who would like to speak on this application?

MR. HERMAN: Rob Herman of En-Consultants on behalf of the applicant.

As Jill was describing, the project essentially consists of two parts; an upland renovation in the same neighborhood as the prior application the Board just heard and then also an erosion control portion.

For the erosion control portion, the property now is in part unbulkheaded with an eroding natural shoreline with no classic wetland vegetation. The only vegetation that is there is phragmites. There is also an existing, what you might almost call a mid to high-sill bulkhead to the extent that it is overtopped often enough at higher high tides. There is a very small fringe of course we can't see here but you can probably see in the photographs submitted with the application, a very small fringe of high marsh behind that bulkhead that I believe the Board, I believe had seen during a past inspection and also noted by a member of the DEC who was out there, I believe with Jim some time ago.

So what we have done is to propose to maintain that bulkhead in its previously existing condition, which is why it meets the definition of exempt minor action under the LWRP. What we are proposing to take is an approximately 189, 190-square foot high marsh area and restore that once the bulkhead is reconstructed with *Spartina patens*. The *patens* should hold up there because it should get enough overtopping at that same height and sea spray to maintain the vegetation. We are also proposing as part of the low sill bulkhead portion of the project to create almost 140 square feet of intertidal marsh, *Spartina alterniflora*, which is currently absent. I'm not sure if Peggy had it there in one of the photos. But the surveyor staked the location of -- yes, you can see the string. Thanks. The stakes are higher than what the top of the bulkhead would be but that orange string is actually set at the top elevation of the bulkhead so the Board could understand where the wall would go. And as per the comments and the prior conversations with CAC, based on surveyor's data, the top of the low sill bulkhead is proposed to be about a foot below high tide. So as Dave explained at high tide it would be a sub-tidal structure, the water would flood in, support the *alterniflora* behind it and at low tide the water would be on the seaward side of the structure and you would have a stabilization of the that toe.

In the gaps there, there will be fill put in and the *alterniflora* set in the fill. So similar to the Mattituck jobs that Jim had mentioned, we should end up, if it takes, with a little bit of a fringe of

intertidal marsh here. So that's certainly a benefit to the project, by any standard. The residential portion of the renovation, I know the Board had visited with the applicant, I believe in the prior application, a prior agent, the renovation had originally consisted of the vertical expansion, the existing one-story cottage in that same location. And I think there was some objections to that by the Board to encourage the applicants to really keep the expansion of the house behind the sitting structure. And so the plan that has been devised now is that the existing one-story, and we can get into this if the Board feels it's necessary, but the architect believes there is significant portions of the structure that can be worked with. But we put in for a demolition of this portion of the structure and a reconstruction of it in place just to avoid some of those issues we've had in the past where we proposed up to a certain limit and then the construction goes beyond that and we end up with a violation. So we are trying to propose the, I don't know if you call it a worst case scenario, but the most extreme scenario with respect to the demolition assuming it all comes down. But it would be replaced only with single-story. The two-story expansion would occur entirely on the landward side of the structure, where the stakes are, and there is actually the front portion of the house, the triangular portion of the house that is shown on the site plan would be demolished. Right there. But not reconstructed. So all the structure sits where it sits. It would obtain about a four-foot increase in the wetland setback. And it ends up resulting in about -- it ends up reducing the existing footprint from 511 square feet to 451 square feet, and then the approximately 850-square footprint addition will come on the landward side.

As mitigation, we proposed an equal area buffer adjacent to the wetlands of 850 square feet, the same as the addition. The sanitary system for the current dwelling sits about 30 feet from the wetlands boundary. It's a single cesspool. That will be eliminated in favor of the new sanitary system which is, as Jill read, will have cesspools more than 100 feet from the wetland boundary. It will introduce a drainage system of leaders, gutters and drywells to the property to capture and recharge drainage. And as I described earlier, there will actually be a creation and therefore increase in the amount of vegetated wetlands present on the property as part of the low-sill bulkhead construction. So it's definitely increasing the size of the house, but we would argue that there is substantial ecological mitigation here that allows the project to be consistent with the LWRP and to be consistent with the discussions that the Board had with the applicants previously.

TRUSTEE DICKERSON: Rob, did I hear you say the restoration is equal to the square footage of the building?

MR. HERMAN: The area of the proposed buffer will be equal to the square footage of the proposed addition.

TRUSTEE DICKERSON: Okay.

MR. HERMAN: It will be off by four feet. Roughly the idea was to try to balance the new footprint area -- it will actually be more because the addition introduces 854 new square feet, but we are actually reducing some of the existing square footage. So there will be more buffer introduced than there will be new footprint introduced. So we attempted to mitigate the renovation as best you can on a lot like this. Obviously it's a small lot. It's tight on wetlands. There is not a lot of room, there is not a lot of choices of where to move things around here. But again, this does allow us to put all the new leaching pools more than 70 feet farther from the wetlands than they are now; add the drainage system, add intertidal marsh; enhance the high marsh that is there and establish a buffer in place of what really now is just lawn mixed with phragmites.

So we hope the changes that you see relative to the last application that you viewed are consistent with what you are looking for and maybe hopefully a little more in way of some of the mitigation that is proposed.

Again, if have you any questions, I'm here, the applicants are here, the project architect is here.

TRUSTEE DOHERTY: Thank you. Is there anybody else like to speak on this application?

MR. BALDWIN: My name is Dan Baldwin, I'm the son of the adjacent property owner at 1045 Island View. The one question that we have is on the drawings that we were provided it appears that the bulkhead, the proposed bulkhead will intersect the property line and it will adjoin the existing bulkhead. And we are just wondering if permission is required from our side to cross that property line?

TRUSTEE DOHERTY: That's a good question. Here is the property line (Perusing.) Do you see where he's talking about, Rob?

MR. HERMAN: I do.

TRUSTEE DOHERTY: I mean, if you two can work that out.

MR. MILAZZO: I'm John Milazzo, the owner's son. This is where the application was in July. They are talking about the low sill side. This Board approved our neighbors to the north increasing our return and I think this is what their concern is, where they would tie together. When we were at the site, we talked about that. We are more than willing to work with the neighbor in devising a method that suits both of our needs. But this is the low sill side, so Rob can speak to the environmental and structural support.

MR. HERMAN: I understand the gentleman's point. It's crystal clear. We can handle it in one of two ways. If the neighbor is willing to enter into an agreement that I guess as a practical matter we would have to involve the contractor, what we would do is we would give you a letter that would run with the plan -- I

apologize. I probably should have foreseen this -- simply asking you to acknowledge what we are doing and give written consent to allow it so that they will tie together. If for some reason your family didn't want to do that, we would then have to create our own return, but that would probably not be the best solution for the two land owners. So that would be the question. If that sounds like a reasonable solution to the speaker, then we would, if the Board was disposed to approving the low sill bulkhead, we would just ask them to approve it subject to the adjacent neighbor providing written consent to tie in. Because then the plan would remain as is. If they for whatever reason didn't want it to be involved or didn't want to get involved with it, we would have to amend the plan to show some sort of return, but that would allow the continued erosion of your corner of the property whereas this would at least provide some remedy to that.

TRUSTEE DOHERTY: Do you see yourself agreeing to that?

MR. BALDWIN: I'm not authorized by the property owner. I can't consent. But I would speak with the property owner.

TRUSTEE KING: How much of an encroachment is that? It doesn't look like much.

MR. HERMAN: I could scale it. (Perusing.) 18 inches.

TRUSTEE KING: It doesn't look like much here

MR. HERMAN: It's not. I mean, on this seaward face it's about 18 inches. But it crosses the line and, again, I apologize, if it was, if it was a more significant intercept I probably would have thought to send it, but it's probably so rare that bulkheads actually meet precisely at the property line that it's usually considered incidental, and it's always to the neighbor's advantage to tie it, otherwise it leaves a gap. But if we can't provide an answer tonight, I would just ask, again if the Board were willing to approve the low sill bulkhead, that we just be allowed to either leave the plan as is with the written consent or we would have to give you an amended plan to show a return.

TRUSTEE DOHERTY: Sure.

MR. HERMAN: We would hope were we would not be stuck with that.

TRUSTEE KING: I think it's foolish to have the second. You would have nothing but erosion going up.

MR. HERMAN: Hopefully, if the gentleman can speak to the family, I can give you my card or something so you can just give me a call or E-mail or something and I could draft a letter, if you wanted to go that route.

MR. BALDWIN: Sure. Great.

TRUSTEE DOHERTY: Are there any other comments?

(No response.)

No comments or questions from the Board?

(No response.)

TRUSTEE DOHERTY: We have been working on this for a couple of years now and as Rob explained, all the

changes, they really have done everything we have asked. So with that I'll make a motion to close the public hearing.

TRUSTEE DICKERSON: Second.

TRUSTEE DOHERTY: I'll make a motion to approve the application of Rose Milazzo Revocable Trust, as submitted, with all the normal conditions that are already on the survey; the drywells, hay bale line during construction, replanting of the buffer, and that's to be maintained, and silt boom during construction. That's my motion.

MR. HERMAN: And Jill, again, it would be conditioned upon the Baldwin family's consent or submission of revised plan showing a return.

TRUSTEE DOHERTY: Right. And also the consent of the neighbor to tie in to the low sill bulkhead to their return. Or submit a revised plan.

MR. HERMAN: I don't want to leave the Milazzo's at the mercy of communication.

TRUSTEE DOHERTY: Or if that's not agreeable, they can submit an amendment for a return on their side.

MR. MCGREEVEY: Just to comment, Jill. With a return, I don't think the CAC members would support a new application because of natural resource of erosion.

MS. HULSE: Jill, I don't mean to muddy the waters, but I would prefer the resolution not contain the consent. Could you do it either or? Could you word the resolution differently?

MR. HERMAN: Leave the consent out. Either as is or with a return. You did that on the one in New Suffolk, where you could either raise the wall by 12 inches or not, and that worked out fine. It took five months for an answer from DEC, but it worked out fine.

TRUSTEE DOHERTY: I'll start over again. I'll make a motion to approve the application of Rose Milazzo as applied for with the gutters, leaders drywells; the hay bale line during construction; the silt boom during construction; the replanting of the buffer and the buffer to be maintained which, with all that buffer, would bring the LWRP into consistency. And if they can't tie into the neighboring bulkhead, they may apply for an amendment to put a return on their property. Did I get everything?

MR. HERMAN: I hate to muddy the waters, too. I don't want to leave it that we would apply for an amendment. Just either the plans as is or submit revised plans showing a return. I don't want to cause there to be another application process. Sorry. Lori is here, so I have to get it right.

TRUSTEE DOHERTY: You are right. If they don't tie into the neighboring bulkhead, they can submit new plans showing a return on their property.

MR. HERMAN: Hallelujah.

TRUSTEE DOHERTY: Do I have a second?

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. HERMAN: Thank you. And thank you for your time on site, too.

TRUSTEE KING: Number nine, Jeffrey Butler on behalf of **DANILE HUME** requests a Wetland Permit to construct beach access stairs and related walkways and platforms. Located: 14216 Oregon Road, Cutchogue.

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

MR. BUTLER: Jeffrey T. Butler on behalf of the applicant. I believe this application has been floating around a little while.

TRUSTEE KING: It's been kicking around for a while.

MR. BUTLER: We adjourned it a few times because of confusion over the replanting plan. Now the planting season is before us again and the applicant would like to get to work on the stairs so they could replant the bluff pursuant to the covenants and restrictions on the file map.

TRUSTEE KING: I'm seeing this for the first time tonight, just to let you know. This is the LWRP coordinator's report. It's their recommendation the proposed action is not permissible at this time. And I'll read the reasons here:

The covenants and restrictions established for the subject parcel, parcel number two, part of the major subdivision of Oregon Landing one, prohibits the proposed action: Beach access stairs on parcel number two. The covenant restriction declaration for subject parcel two recorded on June 13, 2005, in the Office of the County Clerk, states no stairways, stairs or other structures shall be installed which allow access to the beach for parcels number two, three and four.

Furthermore, a cross easement set on to the aforementioned subdivision recorded on June 13, 2005, assigned a ten-foot wide easement on to parcel number one which shall serve the residents of the entire subdivision. Therefore, to review the proposed action, the C&Rs would have to be amended, approved by the Planning Board and recorded with the County Clerk. See attached appendices.

Evidently this doesn't comply with the Planning Board's covenants and restrictions.

MR. BUTLER: Can I speak to that for a second?

TRUSTEE KING: Yes.

MR. BUTLER: It's my understanding that the beach access was moved a lot two and the map was re-filed to reflect that. Probably about a year ago. The reason being that lot number one and lot number two were held, are held in the same ownership by Daniel Hume. Lot number two is the one that was developed and lot number one is the one that he has no intention of developing. So he asked the previous landowner to re-file the map so that the beach stairs could be moved over so people would not have to walk between his two lots to get to beach access and make it more convenient to other three lot owners to get access to the beach. So it's my

understanding that, I mean, I did the map to show it and I gave it to the developer. I don't have any evidence with me that it had been filed. But I was told it was filed.

TRUSTEE KING: He just did this report on March 10, so we must not have a record of it. It seems he would have found it.

MR. BUTLER: Was that search done at the county?

TRUSTEE DOHERTY: No. Through the Planning Board. Which if it was filed in the assessors would get it, the assessors would give it to the Planning Board. But maybe it just hasn't processed, because that takes a while.

MR. BUTLER: It usually does.

TRUSTEE KING: Something fell through the cracks, I get the feeling.

MR. BUTLER: Anthony was just reflecting on the fact that when he was here he saw the amended plans come through.

TRUSTEE KING: I think before we could move on this we have to see that. We have to verify it.

TRUSTEE DOHERTY: The same with the next.

TRUSTEE KING: The next one is the same thing.

TRUSTEE DOHERTY: We'll get to that.

TRUSTEE BERGEN: So was the intent here to have one set of stairs for the subdivision?

MR. BUTLER: Yes, which is what the original Planning Board approval allows. But it was allowed on lot one. Lot one and lot two became the same ownership.

Lot two is developed. Lot one is no intention to develop, so.

TRUSTEE BERGEN: I follow you.

TRUSTEE DOHERTY: And now it's going on lot two. But the C&R specifically says lot one, so we can't approve it on lot two.

TRUSTEE KING: They specifically say, and I found it in here. No stairway, stairs or other structures shall be installed which allow access to the beach from parcels two, three and four. That's what has to be changed.

TRUSTEE DOHERTY: We need to see that amendment before we can move ahead.

MR. BUTLER: You need to see a copy of the filed map.

TRUSTEE DOHERTY: Correct.

TRUSTEE KING: That shows that easement was moved to lot two.

MR. BUTLER: I it on the DEC plan but I don't have a copy of the filed map.

TRUSTEE KING: What we do here is very thorough. If we had it, I would think he would have found it.

TRUSTEE DOHERTY: It takes a while by the time it's filed with the county.

MR. BUTLER: It takes time.

TRUSTEE DOHERTY: Maybe it's been filed but it didn't get here yet. Do we have any other concerns with the plantings?

TRUSTEE KING: The main concern we had was replanting that bluff. It's an entire erosion area, that whole area.

TRUSTEE DOHERTY: That area, did they ever try to replant it? I know the C&Rs also said it had to be replanted, but I don't know if it was ever attempted.

MR. BUTLER: That's what happened. The stair application got attached to that and I think now administratively we are handling the replanting, Lauren, and what happened was last year we went through this and you wanted more details of the planting plan. We gave you the details. Then somebody requested an actual plan of the bluff. And I just submitted pictures. It's all got to be planted. It's in bad shape. And then we lost the planting season. So now we are coming up upon the planting season again, and the applicant wants to get moving and get the bluff planted and get the beach stairs in. But to get, he'll have to do, where the beach stairs are planned, there needs to be planting also. But the whole bluff needs to be done. So we want to get it all done in one shot. Disturb the bluff where the stairs going in and get it all planted right away. I think we have a window now of about 60 to 80 days for the planting season for that grass.

TRUSTEE KING: Can we go forward with that?

MS. HULSE: Yes.

TRUSTEE KING: Any other comments on this, from the audience?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE BERGEN: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: I'll make a motion to approve this application based on submission of records showing that the right of way has been moved to lot two so a stairway can be built on lot two.

TRUSTEE DOHERTY: And if we don't get that, then this is not approved.

TRUSTEE KING: Approval is based on receiving this verification.

MS. HULSE: Jim, that approval will make it consistent with LWRP?

TRUSTEE KING: With the amount of planting they'll do, that will help it. It was really nothing whether it was consistent or inconsistent it just says not permissible because of the covenant, so.

TRUSTEE DICKERSON: We are saying it's consistent with the planting and everything, I would say it's consistent.

TRUSTEE DOHERTY: With the planting and everything, I would say it's consistent.

TRUSTEE KING: This platform is what I'm looking at. I'm trying to look at the platform and the stairs. Isn't it 32-square feet is the maximum?

TRUSTEE BERGEN: Yes.

TRUSTEE KING: These are actually, these platforms, this is 11'2". This is 9'9". Nine fours is 36. Eleven fours is 44. We have a maximum platform size of 32

square feet. Some of these on the stairways are quite a bit over that.

MR. BUTLER: 32?

TRUSTEE KING: Yes. That's by code, I believe.

TRUSTEE BERGEN: Yes, it is.

MR. BUTLER: I can make that work with this incline and still meet the state codes.

TRUSTEE KING: Okay.

TRUSTEE DOHERTY: We can do that subject to submitting plans.

TRUSTEE KING: What are the treads made of? Any interest in the open-grate style treads? We have been starting to do some of that on these bluffs where we have a lot of erosion problems to see if it will help the vegetation in the stair area to get more sunlight.

MR. BUTLER: I have seen that product. It's a pretty good product. I'm always thinking of the building code if we have any issues. But I don't think we would with that on the stairs.

TRUSTEE KING: What I like about them is they are really nonskid. I seen a lot of these stairs going down to the beach. They don't get used a lot and first thing you know it's almost like a little mold that grows on them and it's skating time. That grating is much safer. We need some plans to show these decks to conform to our code.

MR. BUTLER: Okay.

TRUSTEE KING: I would like to see the open-grate treads, particularly in this area where you have a lot of erosion problems. Jack?

MR. MCCREEVEY: Have we heard anything back from the DEC whether they approve or disapprove of the erosion --

TRUSTEE KING: Not a thing.

MR. MCGREEVEY: That would be a great situation for that type of engineering.

TRUSTEE KING: CAC supports the application. I didn't understand, Jack. The property boundaries appear to exceed apparent high water? I didn't --

MR. MCGREEVEY: I didn't make the inspection on this, Jim. But I think what they are talking about, if I'm not mistaken --

TRUSTEE KING: It didn't look like it to me.

MR. MCGREEVEY: I think their concern was some construction would overlap the high tide area. I don't know if that's what they had in mind.

MR. BUTLER: That's actually another benefit of moving it to lot two, you could see on the topographical map, that platform is actually a little further landward.

TRUSTEE KING: I don't think that was an issue. And they recommend the open grating on the decking also; minimize the impact on the bluff.

So I would like to move forward with it. So would need verification that it's all right to put stairs and have that easement moved to lot two. We need to see plans showing the platforms that conform to our code, size wise, and the open-grate treads on the stairs. That's my motion.

TRUSTEE DOHERTY: I'll second that.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. MCGREEVEY: Jim, would you recommend that the CAC make another application on our part about that erosion control?

TRUSTEE KING: You could. Because it's such a transition in the DEC office. I don't even know who to contact anymore, to be quite honest with you.

TRUSTEE KING: I'll do the next one, too. Number ten, Jeffrey T. Butler on behalf of **JOHN ELICK AS TRUSTEE** requests a Wetland Permit to construct beach access stairs and related walkways and platforms. Located: 6291 Oregon Road, Cutchogue.

We were out there last year. We apparently have the same situation here in the consistency review. The proposed action is not reviewable at this time because the applicant has not proven the covenant restriction referenced above established for the subject parcel has been met.

MR. BUTLER: I think this was moved for a different reason, because there is a little "T" parking at the end that made it easier for people.

TRUSTEE DOHERTY: So this also has to be filed. And that's the same conditions would apply to this 32-square foot platforms, open-grate.

MR. BUTLER: No problem.

TRUSTEE KING: These landings here are smaller.

TRUSTEE DOHERTY: What about the 5x6 landing.

TRUSTEE KING: It's 30.

TRUSTEE DOHERTY: I wasn't sure what that said. So that's okay.

TRUSTEE KING: It's really not considered a platform.

TRUSTEE DOHERTY: The top one can be.

TRUSTEE GHOSIO: It only extended over the bluff line a little bit.

TRUSTEE DOHERTY: It's within the coastal erosion.

TRUSTEE KING: I guess it gets back to basically the same situation we had in the previous application. So we'll do the same solution, I guess. And they had a performance guarantee also here on the beach grass, the survivability for five years.

MR. BUTLER: Yup.

TRUSTEE KING: I guess we can move forward with this the same way. CAC supports the application, same comments as the previous application. Open-grate decking, no disturbance to the buff other than the areas of the stairs.

If there is no other comments I'll make a motion to close the hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE KING: I'll make a motion to approve this based on receipt of these covenants that stairs can be put in this location. And the stairs going to platforms that are smaller but we want the open-grate stairs the same.

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. BUTLER: Thank you.

TRUSTEE GHOSIO: Number eleven. KPC Planning Services on behalf of **JACK MAY** requests a Wetland Permit to demolish the existing structures and construct a new 2,510 square foot two-story dwelling, porch, deck and sanitary system. Located: 1340 Cedar Point Drive East, Southold.

We all went out to see this one. CAC saw it and resolved to support the application with the condition that they had add a ten-foot, non-turf buffer landward of the top of the bluff. And LWRP finds the proposed action inconsistent with LWRP because the distance from the natural protective feature, which is a bluff, is approximately 15 feet measured to the top of the bluff, or 24-foot contour as depicted on the survey.

Okay, is there anybody here who would like to speak to this application?

MR. TREZZA: Anthony Trezza from KPC Planning Services on behalf of the property owner. Essentially, here, we are simply looking to demolish the existing structure and replace it substantially in the same location as the current structure, looking to upgrade, obviously, the sanitary system in order to put the new residence there. We are going to be connecting to the public water as per the Health Department requirements. We'll be installing new drainage structures to handle the runoff. We are proposing a pervious driveway, and by keeping the proposed residence within the location of the existing residence, we are limiting the amount of additional clearing that needs to occur in order to accommodate the new development. I would also show the members here, I only have a few photos, an aerial showing the neighborhood. My client's structure has the little arrow above it there. The smaller than the rest of the structures, it's going to be smaller than many of the structures in the neighborhood. Modest by comparison. 2,500 square feet, about 1,300 or 1,200 square foot footprint. Again, maintaining the existing setbacks. Having been out there, you know, the bulkhead is fully functional. It's in good condition. The jetties are still in good condition. The bluff itself is heavily vegetated. It doesn't appear there has been any substantial erosion. When you look at the Five Towns topo, which was done in 1974, and I have some here for the Board, just to put some historical prospective, that many of the structures in this area have been there since 1974 and in fact the shoreline has not changed that much in the last 35 years. So we would ask that the Board approve the project as proposed. We have no objections to a ten-foot, non-turf buffer.

TRUSTEE GHOSIO: I think when we were out in the field, we found it refreshing somebody actually said they were going to demolish a structure. The question did come up, so I'll pose it to you. If there is any consideration to moving this any further away from the top of the bluff.

MR. TREZZA: We had looked, when looking at the property, first and foremost, as you could see, when you go to the property,

the property owners are not that interested in things like lawn or pretty flowers and stuff like that. They want to keep the natural vegetation. And what they don't want to have to do is clear too much of the vegetation that is already behind the front of the residence there. The other issue that we may have and would have to look into it, is that under New York State Building Code, a basement becomes a story when the finished surface of the floor above the basement is more than six feet above the finished grade for more than 50% of the total building perimeter, and I think that the grade falls off, obviously, as you get closer to the street and we may have an issue with a third-story on this house per the building code if we do that. That was our concern. So understanding LWRP, understanding the need to protect the bluff, I could understand wanting to move the structure back. I would submit though to this Board that in this particular case there are other circumstances which would warrant keeping it in its current location and that the bluff has not had any substantial erosion at least since the 1974 Five Towns topo, which I have used.

TRUSTEE KING: Do you need anything from DEC on this?

MR. TREZZA: I need a non-jurisdiction letter. Although there is always a question about an NJ letter. I'm in with the DEC for a non-jurisdiction letter.

TRUSTEE KING: So that requirement, if you get a non-jurisdiction, you would not have to worry about that requirement as far as the third-story issue.

TRUSTEE DOHERTY: No, that's the Building Department.

MR. TREZZA: And when we looked at doing the Zoning analysis on the property, trying to figure out what would be the best place to locate new structures --

TRUSTEE KING: I misunderstood.

TRUSTEE GHOSIO: Any other questions or comments from the Board?

TRUSTEE DOHERTY: I'm comfortable with the house where it is now, especially after looking at this aerial, it's in line with all the other houses. Perfectly inline.

TRUSTEE KING: So the house itself will actually be at that seaward location of what is the deck now?

MR. TREZZA: I don't know if you have the pictures. But I do. And if you look, we staked the back of the property showing the building is in the same location. We are not getting any closer.

TRUSTEE GHOSIO: Any other comments, questions?

(No response.)

I'll make a motion to close the hearing.

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

TRUSTEE GHOSIO: I would like to make a motion we approve the application for Jack May as submitted with the stipulation that a ten-foot, non-turf buffer landward of the top of the bluff, and I just want to make mention, we would like you to conform to the drainage code; drywells, gutters and leaders. And that in doing so it will bring it into consistency with LWRP. Do I have a second?

TRUSTEE DOHERTY: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)

MR. TREZZA: Thank you.

TRUSTEE GHOSIO: I would request we have a revised plan showing that buffer.

MR. TREZZA: Sure.

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

TRUSTEE DICKERSON: Second.

TRUSTEE KING: All in favor?

(ALL AYES.)