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INCORPORATED VILLAGE OF LAUREL HOLLOW
BOARD OF ZONING
PUBLIC HEARING
November 29, 2017
7:30 p.m.

VILLAGE HALL
1492 Laurel Hollow Road
Syosset, New York 11791-9603

PRESENT: RUSSEL MOHR, CHAIRMAN
NEWTON J. BURKETT, MEMBER
LOUIS LEBEDIN, MEMBER
JEFFREY BLUMIN, MEMBER
CINDY KAUFMAN, MEMBER

ALSO PRESENT:
HOWARD AVRUTINE, Village Attorney

ALSO PRESENT:
RACHEL SCELFO, ESQ.
Attorney For George Poll

ZV5-2017 & ZS6-2017 POLL
Continuation of Public Hearing

MARY ANNE COPPINS
OFFICIAL COURT REPORTER

1 MR. AVRUTINE: This is the public
2 hearing of case ZV5-2017 and ZS6-2017.
3 ZV5-2017 is a continued public hearing
4 on the application of Edward Butt on
5 behalf of George Poll to construct a new
6 boat house and dock at 1458 Ridge Road,
7 Laurel Hollow, where the parcel is not
8 an improved residential property as
9 required by Section 145-20.1(B) of the
10 Laurel Hollow Village Code.

11 No accessory building shall be
12 erected on a lot that is less than 2
13 acres in area as per Section 145-5(A)(1)
14 of the Laurel Hollow Village Code. A
15 lot size of .21 acres is proposed.

16 No accessory building shall be
17 erected on a lot with less than 150 feet
18 of street frontage as required by
19 Section 145-5(A)(2) of the Laurel Hollow
20 Village Code. A street frontage of zero
21 is proposed.

22 No accessory building shall be
23 erected on a lot that does not have a
24 minimum contiguous building area of
25 15,000 square feet as required by

1 Section 145-5(3) of the Laurel Village
2 Code. A buildable area of 4,493 square
3 feet is proposed.

4 No accessory building shall be
5 erected unless it has a setback of 40
6 feet with every lot line not abutting a
7 street as required by Section
8 145-5(B)(2) of the Laurel Hollow Village
9 Code. A setback of 20 feet 10 inches is
10 proposed on the west side and a setback
11 of 14 feet 4 inches is proposed on the
12 east side.

13 And, lastly, accessory buildings or
14 structures must be on the same lot with
15 a principal building as required by
16 Section 145-2(B) of the Laurel Hollow
17 Village Code. The proposed accessory
18 building would be located on a lot with
19 no principal building on it.

20 ZS6-2017 is the continued public
21 hearing on the application of Edward
22 Butt on behalf of George Poll to
23 construct a new boat house and dock at
24 1458 Ridge Road where the construction
25 will disturb a steep slope and a very

1 steep slope as shown on the plan filed
2 with the Board. The property under
3 application is Section 26 Block C Lot
4 258 on the Land and Tax Map of Nassau
5 County.

6 Exhibits in connection with this
7 continued hearing are as follows:
8 First, exhibits entered into the record
9 at the hearing of August 15, 2017.

10 The next exhibit is the Legal
11 Notice of public hearing dated November
12 8, 2017.

13 The next exhibit is an Affidavit of
14 Posting from Nick Porcaro that the Legal
15 Notice was posted conspicuously on the
16 bulletin board at the main entrance of
17 the Office of the Village Clerk on
18 November 17, 2017.

19 The next exhibit is an Affidavit of
20 Publication from Richner Communications
21 stating that the Legal Notice was
22 published in the Oyster Bay Guardian on
23 November 17, 2017.

24 The next exhibit is an Affidavit
25 from the Deputy Clerk stating that the

1 Notice of Public Hearing was mailed to
2 other interested parties on November 17,
3 2017.

4 The next exhibit consists of
5 documents confirming that the Notice of
6 Public Hearing was published to the
7 Village of Laurel Hollow website and
8 sent to website NEWS subscribers on
9 November 17, 2017.

10 The next exhibit is an Affidavit of
11 Mailing from the applicant indicating
12 that the Notice of Public Hearing was
13 mailed on November 16, 2017 to the
14 individuals set forth in the affidavit.

15 And the final exhibit is
16 correspondence from Rachel Scelfo,
17 Esquire, dated October 4, 2017.

18 Ms. Scelfo?

19 MS. SCELFO: Thank you very much.

20 Rachel Scelfo, Certilman Balin, 100
21 Motor Parkway, Hauppauge, New York for
22 the applicant. Mr. & Ms. Poll are here
23 with us tonight, as is Mr. Edward Paul
24 Butt, who is the architect for this
25 project.

1 We thank you for convening in
2 November to be able to hear this
3 application, we do appreciate that.

4 Just as another item of exhibit,
5 Mr. Avrutine, we have an additional
6 consent form from Barbara Schmitt on
7 behalf of the owners, Walter and Barbara
8 Schmitt, known as Nassau County Land and
9 Tax Map Section 26 Block C Lot 307.
10 They are the adjoining property owners
11 to Mr. Poll situated at 1458 Ridge Road,
12 Laurel Hollow, and they have seen and
13 understood the proposed plans on which
14 the application has been made and they
15 give their consent for the variance
16 relief being sought in connection with
17 the use of a beach house and dock.

18 That is sworn to on November 1,
19 2017 and signed by Barbara Schmitt and I
20 would like to submit that for the
21 record.

22 We are here this evening from the
23 continued public hearing back in August,
24 I believe it was, where we met and we
25 reviewed the application and the

1 variances that we were seeking. I'm
2 happy to go back and discuss, if the
3 Board would like; however, where we left
4 off that evening was with some questions
5 of the Board.

6 The Board basically wanted us to do
7 some research looking into two issues:
8 Looking into the Village records,
9 whether anyone was sort of similarly
10 situated to Mr. Poll's situation where
11 he owns the lot right on the water and
12 then two lots back is his main residence
13 connected by a 12-foot right-of-way.

14 Mr. Butt came into the Village
15 office and he sat down with Karen Navin,
16 the Village Clerk. She administered his
17 review of the records and we found that
18 there was not a similar situation where
19 a property owner had a smaller lot right
20 on the water and then two lots back
21 there being a residence. We found that
22 was a unique situation.

23 In addition to that, the second
24 part of the request kind of required us
25 to do a little bit of title work and

1 show to the Board that this is a unique
2 situation in that Mr. Poll did not
3 create this situation, the Polls did not
4 create this situation. They came to the
5 lots and this was an existing condition.

6 All of this is set forth in the
7 October 4, 2017 letter that I submitted
8 to the Board. I have extra copies with
9 me tonight if the Board would like to
10 review it.

11 Basically, we retained the
12 assistance of Chicago Title to research
13 the history of the parcels at issue,
14 specifically, the right-of-way
15 connecting the two parcels owned by the
16 Polls. Chicago Title was able to verify
17 that the right-of-way was created in
18 1954, which is what we had stated at the
19 last meeting but we now have the Title
20 Report to back that up.

21 So the right-of-way was created in
22 1954 through the conveyance from
23 Chamberlin to Bennett, Deed Liber 5501,
24 page 136, which was dated March 12,
25 1954. That was all included in the

1 right-of-way search prepared by Chicago
2 Title that we submitted as part of our
3 October 4th submission to the Board.

4 Our conclusion, based on the
5 research, was that an approval of Mr.
6 Poll's application will not create a
7 precedent for other Village residents to
8 follow.

9 In this instance, there are no
10 similarly situated parcels, which I
11 described previously, with a substandard
12 lot on the harbor, and then a second
13 parcel for the main residence not
14 immediately adjacent, and, yet, the two
15 lots are connected by this right-of-way
16 that was created back in 1954.

17 While a resident could attempt to
18 recreate this situation, arguably, the
19 matter would still be distinguishable as
20 Mr. Poll came to the property as it
21 currently exists. He purchased the two
22 lots in November of 2013. He didn't
23 create that situation. That
24 right-of-way between the parcels has
25 existed all the way back to 1954. So

1 someone coming in and trying to use this
2 as precedent and recreate something like
3 this knew the situation would be
4 different. It would not be good
5 precedent because they would be trying
6 to create something from scratch, that
7 in this instance, has existed all the
8 way back to 1954. So I do not believe
9 that this could be used as a precedent
10 for others to follow.

11 In addition, one other item that we
12 discussed briefly at the end of the
13 meeting was that we would be agreeable
14 to a restrictive covenant sort of
15 connecting the lots. So, for instance,
16 that the accessory building of a boat
17 house existing on Lot 258 on the harbor
18 shall be permitted so long as it is held
19 in common ownership with the main
20 parcel, which is Lot 2151. So we would
21 be in agreement to condition of approval
22 that we would record a restrictive
23 covenant sort of connecting the two lots
24 in this way; of course, subject to
25 review and approval by the Village

1 Attorney as to the exact language of
2 that covenant.

3 Mr. Butt is available to speak to
4 the research he did with the Village
5 Clerk's Office if the Board would like
6 to hear a little bit more about that. I
7 think most of you were here when this
8 application was originally heard. We
9 had our main hearing in August and this
10 is what was the open matters.

11 So, unless the Board has any
12 questions, we are here and happy to
13 answer them.

14 MR. LEBEDIN: Just to clarify.

15 So there is no owner of the
16 adjacent property that has demonstrated
17 an issue with the construction of this
18 property?

19 MS. SCELFO: No. At this point we
20 have both adjacent owners.

21 MR. LEBEDIN: No other adjacent
22 properties, other than those two?

23 MS. SCELFO: The two on the sides
24 have submitted letters in support, one
25 tonight and one at the last meeting, and

1 the intervening parcel would be adjacent
2 behind, but that is the lot that is
3 burdened by the 12-foot right-of-way.

4 MR. AVRUTINE: Just as a technical
5 matter. I would like to -- the consent
6 document that Ms. Scelfo provided was
7 notarized on November 1, 2017 and that
8 will be marked as Applicant's Exhibit
9 Number 5 for the record.

10 Also, for the record, I want to
11 note that Member Burkett has recused
12 himself on this matter.

13 CHAIRMAN MOHR: If we can, for the
14 record, just have Mr. Antonelli review
15 the slope issue.

16 MR. ANTONELLI: Okay, for the
17 record, Jim Antonelli, Village Engineer.

18 I believe I testified at the
19 hearing on August 15th that the site
20 plan, the site engineering that was
21 provided, I believe the plan in your
22 package, is prepared by Bladykas &
23 Panetta dated June 27th. All of those
24 matters were acceptable. That includes
25 grading, drainage, the typical things

1 that I would look at. I was looking at
2 the flood plain.

3 I read the transcript. I want to
4 make sure that floodplain is P-L-A-I-N,
5 not A-N-E.

6 The issue there is that there is a
7 floodplain on the waterfront property
8 and then there are regulated slopes.
9 There is no other land that is between
10 those two grades, between flat and
11 steep. So if they are going to do
12 anything, I think it's unavoidable, in
13 my opinion, to disturb the regulated
14 slope area. Like I said, I have no
15 problem with the way it was engineered
16 for site work.

17 CHAIRMAN MOHR: The location seemed
18 appropriate based on the conditions in
19 front of us?

20 MR. ANTONELLI: Yes.

21 MR. AVRUTINE: Mr. Antonelli, based
22 on your review of the plans, have you
23 completed part 2 of the environmental
24 assessment form?

25 MR. ANTONELLI: Yes. The applicant

1 did provide the SEQRA short form. We
2 treat the slope applications as unlisted
3 actions under the State Environmental
4 Quality Review Act. At a minimum, it
5 requires, among other things, the short
6 environmental assessment form. I found
7 it to be in order. I have prepared part
8 2 on behalf of the Village and I signed
9 it and I will submit it to you for the
10 Chairman's signature if there is a vote
11 on the determination of significance.

12 MR. AVRUTINE: Thank you, Mr.
13 Antonelli.

14 Is it your recommendation that the
15 Board can adopt a negative declaration
16 under the New York State Environmental
17 Quality Review Act in connection with
18 the slope relief sought?

19 MR. ANTONELLI: Based on the
20 information we have to date, yes.

21 MR. AVRUTINE: Thank you.

22 CHAIRMAN MOHR: Would anybody from
23 the public like to speak on this matter?

24 (No response.)

25 Any more questions from the Board?

1 (No response.)

2 MR. AVRUTINE: Motion to close the
3 public hearing.

4 MR. BLUMIN: So moved.

5 MR. AVRUTINE: Second?

6 MS. KAUFMAN: Second.

7 MR. AVRUTINE: Member Kaufman.

8 All in favor.

9 MR. LEBEDIN: Aye.

10 MR. BLUMIN: Aye.

11 MS. KAUFMAN: Aye.

12 CHAIRMAN MOHR: Aye.

13 MR. AVRUTINE: Member Burkett
14 recused.

15 We will do the decision on the
16 slope application first.

17 The first resolution in connection
18 with the slope application is for the
19 Board to declare itself lead agency
20 under the New York State Environmental
21 Quality Review Act.

22 Do I have a motion?

23 MR. BLUMIN: So moved.

24 MR. AVRUTINE: By Member Blumin.

25 Second?

1 MR. LEBEDIN: Second.

2 MR. AVRUTINE: Member Lebedin.

3 All in favor?

4 MR. LEBEDIN: Aye.

5 MR. BLUMIN: Aye.

6 MS. KAUFMAN: Aye.

7 CHAIRMAN MOHR: Aye.

8 MR. AVRUTINE: With member Burkett
9 recused.

10 The next motion would be to declare
11 the matter Type II -- excuse me,
12 unlisted under the -- pursuant to the
13 New York State Environmental Quality
14 Review Act.

15 MR. BLUMIN: So moved.

16 MR. AVRUTINE: Member Blumin.
17 Second?

18 MS. KAUFMAN: Second.

19 MR. AVRUTINE: Member Kaufman.

20 All in favor.

21 MR. LEBEDIN: Aye.

22 MR. BLUMIN: Aye.

23 MS. KAUFMAN: Aye.

24 CHAIRMAN MOHR: Aye.

25 MR. AVRUTINE: Again, Member

1 Burkett recused.

2 The next motion would be to adopt a
3 negative declaration under the New York
4 State Environmental Quality Review Act.

5 Do I have a motion.

6 MR. LEBEDIN: So moved.

7 MR. BLUMIN: Second.

8 MR. AVRUTINE: Member Lebedin,
9 seconded by Mr. Blumin.

10 All in favor?

11 MR. LEBEDIN: Aye.

12 MR. BLUMIN: Aye.

13 MS. KAUFMAN: Aye.

14 CHAIRMAN MOHR: Aye.

15 MR. AVRUTINE: Member Burkett
16 recused.

17 And the next motion would be on the
18 application for slope disturbance.

19 So, we have a motion to approve by
20 Chairman Mohr?

21 CHAIRMAN MOHR: Sure.

22 MR. BLUMIN: Second.

23 MR. AVRUTINE: Seconded by Member
24 Blumin.

25 Now, the condition associated with

1 the approval, obviously, it's a
2 plan-specific approval, but also it will
3 be conditioned upon a recorded covenant
4 restriction satisfactory to the Village
5 Attorney, which, as Ms. Scelfo stated
6 during her presentation, would state
7 that the accessory structure can exist
8 only so long as the two parcels are
9 commonly owned. Also, the Certificate
10 of Occupancy for the structure will
11 state that as well on it that if, at any
12 time, the parcels are no longer commonly
13 owned then the Certificate of Occupancy
14 becomes void and then the structure
15 would have to be removed. So there will
16 be a recorded covenant that states that
17 and the Certificate of Occupancy will
18 state that. That is the nature of the
19 condition and I will work with counsel
20 on the language for the recording
21 document.

22 Can we have a vote on the motion
23 with the condition.

24 MS. KAUFMAN: Motion to approve.

25 MR. AVRUTINE: We have that,

1 everyone is just going to vote.

2 So we have a motion that was made
3 by the Chairman and seconded by Member
4 Blumin.

5 All in favor.

6 MR. LEBEDIN: Aye.

7 MR. BLUMIN: Aye.

8 MS. KAUFMAN: Aye.

9 CHAIRMAN MOHR: Aye.

10 MR. AVRUTINE: Member Burkett
11 recused. Approved with the condition as
12 stated.

13 Now we have that portion of the
14 application ZV5-2017, the variance
15 application. Let the record reflect,
16 that the variance application is deemed
17 Type II under New York State
18 Environmental Quality Review Act.

19 Do we have a motion on the
20 application, presumably, wanting to
21 approve.

22 MR. BLUMIN: Motion to approve.

23 MR. AVRUTINE: By Member Blumin.

24 Second?

25 MR. LEBEDIN: Second.

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MR. AVRUTINE: By Member Lebedin.

That is with the same identical condition as on the slope application with the restricted covenant and the Certificate of Occupancy restriction.

CHAIRMAN MOHR: Yes.

MR. AVRUTINE: All in favor?

MR. LEBEDIN: Aye.

MR. BLUMIN: Aye.

MS. KAUFMAN: Aye.

CHAIRMAN MOHR: Aye.

MR. AVRUTINE: With Member Burkett recusing on both, approved.

MS. SCELFO: Great, thank you.

* * * * *

C E R T I F I C A T I O N:

I, Mary Anne Coppins, Court Reporter, hereby certify that the above transcript is a true and accurate copy of the minutes taken by myself stenographically in the within matter.

Mary Anne Coppins
Court Reporter