



# TOWN OF EAST HAMPTON

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March 4, 2010

**TO:** Planning Board

**FROM:** Eric Schantz  
Planner

**RE:** Marmorowski Subwaiver Modification  
SCTM# 300-67-1-7  
Application # A0520060123

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**Last Review Date:** March 3, 2010

**Background Information:** The parcel is located in Montauk in an A-Residence zoning district and Flood Zone X. Application has been submitted for subdivision waiver approval to divide the 133,759 square foot parcel into two lots. The most common vegetation is mixed oak forest and the property slopes down to a centrally located freshwater wetland with standing water. Lot 1 contains the remnants of two golf storage buildings and is 47,689.92 square feet, excluding wetlands. The applicant is proposing to extend Tyler Road to access Lot 1. Lot 2, accessed from Hoover's Court, contains the applicant's residence and is 86,069.89 square feet.

## **Issues for Discussion:**

### **Sanitary System**

At the previous meeting, the Board discussed the issue of how to ensure the proper installation of a sanitary system on proposed Lot 1. Richard Whalen, an attorney for the applicant, spoke at this meeting and has also submitted a letter to the Board (dated March 1, 2010). The Board should read the proposal therein which suggests that specific covenants and restrictions be applied to the property.

Upon review, it appears that the applicant's proposal will address the Planning Department's two main concerns, which are: 1.) To prevent the creation of a lot which may not in fact be buildable given the possibility of complications with the installation of the sanitary system, and 2.) To prevent a future owner from being burdened by such problems, should they arise.

However, the Planning Department is unsure of both the legality and enforceability of such covenants and restrictions and recommends that the Board defer to Council in this regard.

A few Board Members had also stated that it should also be required that a Building Permit be granted for proposed Lot 1 before it could be sold. This issue, along with any other desired modifications to the proposed covenants and restrictions should be discussed.

It is further noted that condition of approval #7 will still need to be removed. Provided the Board is amenable to the proposal of the applicant's attorney, then the declaration of covenants and restrictions should be modified and submitted to the Town Attorney for review. If found acceptable, these two items should be added as conditions of minor subdivision approval and condition #23 (which lists what conditions of approval should also be filed as covenants and restrictions) should also be amended to reference these conditions.

Please also note that condition of approval #24 is improperly numbered (labeled #23) and this should also be changed.

**Conclusion**

In conclusion, the Board should discuss how the resolution of approval should be amended.

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**Planning Board Consensus**

*How should the resolution be modified?*

Additional comments: \_\_\_\_\_  
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**Additional Board Comments:**

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