

# More Than Just A Pool

Next Thursday, December 15, the Southampton Town Zoning Board of Appeals is set to make a decision that might seem inconsequential on its face—at stake is a pool in the front yard of a house in Bridgehampton—but in fact could have a wide-ranging impact on town zoning, not to mention introducing absurdity to the town code.

The ZBA has already rejected an earlier bid for the pool in the front yard of the Hildreth Avenue residence. In doing so, the board concluded that the pool—which would be largely above ground, due to the shallow depth of groundwater at the site—would be out of character with the rest of the neighborhood. Wetlands at the rear of the property make it impossible to put a pool there, and the board was not swayed by the argument that two other nearby houses have front-yard pools. One property, the board noted, is a special circumstance involving a corner lot; the owners of the other, which is adjacent to the property in question, obtained a variance two decades ago—a move the current ZBA flatly labeled an “unfortunate decision,” adding that this board “does not wish to duplicate that error.”

The next gambit by Southampton land use attorney John Bennett, who represents the property owner, was a swing-for-the-fences move. He argued that wetlands at the rear of the property, part of a large marsh known locally as Sagg Swamp, make the property a waterfront lot. In the town code, waterfront lots get special dispensation for front-yard pools, so a variance would not be needed. It was a creative argument—and, surprisingly, the town’s chief building inspector, Michael Benincasa, agreed. Mr. Benincasa’s ruling is what’s before the ZBA next Thursday, when the board will reject or accept it.

If the ZBA signs off on this nonsensical interpretation of town code, the precedent will be sweeping. Every property in town with wetlands, whether or not it is adjacent to an actual body of water—the wetlands at the Hildreth Avenue property is not such a body, barring a few kettleholes—will have brand new development rules, which were never intended to be applied to them.

This is about common sense, of course. The town code does not specify what it means by “waterfront”—a loophole that should be closed as quickly as possible by the Town Board, by the way. But it stretches logic to the point of snapping to suggest that properties bordering a swampy marsh are waterfront in any sense of the word. The drafters of the town code likely left the term undefined because it needs no definition. Everyone knows what “waterfront” means, including the owner of the Hildreth Avenue house, who lists the property on a popular rental site as “not waterfront”—because it’s not. If this crazy new definition applies, landlocked property owners could resort to turning on a garden hose overnight in their backyards, hoping the resulting mess might open up whole new sections of the town code to them.

What was the chief building inspector thinking? Perhaps there is some favoritism, or at least sympathy, in play, with Mr. Benincasa wracking his brain to find a “solution” to the pool dilemma on behalf of the property owner and her legal counsel. It seems that way, thanks to a revealing comment he made on the subject: “Where else would she put that pool?” The simplest answer—that there is no appropriate place for a pool, because it’s simply not allowed—didn’t seem to occur to him.

The ZBA must set him straight next week. What’s at stake here is more than just a pool—it’s both the spirit and the letter of the law. If the board sides with its chief building inspector this time, it will finally, and officially, turn regulation of land use in Southampton Town into a joke: an alternate reality where reason, logic and common sense don’t apply.