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Serving Southold Town, Shelter Island Town and the Incorporated Village of Greenport



Photo by Judy Ahrens

ON THE SCENE -- Engineer Larry Tuthill (right) leaves the site of the controversial Fleet's Neck property of August Wade (left). Construction of the home Mr. Wade is building was halted Tuesday when officials

from the state Department of Environmental Conservation cited the landowner for violating his DEC permit.

Fleet's Neck Job at Issue

Old Battle Flares Up Again

By TIM GOULD

CUTCHOGUE -- The bulldozers are quiet on Fleet's Neck. At least for now.

And therein hangs a tale -- a remarkably tangled story that spans two decades, three town supervisorships, several court cases and countless hours of recriminations and rancor. It's Southold's own version of "War and Peace."

The most recent chapter was closed on Tuesday, when state Department of Environmental Conservation officials and the town's building department put a halt to the construction of August Wade's house at the end of East Road. The DEC said that Mr. Wade violated several of the conditions of his permit;

when the DEC permit was pulled, the town's building permit became invalid.

Mr. Wade began construction last Saturday morning, and the Fleet's Neck Property Owners Association went to work only moments after the construction crew. Phone calls to town officials brought building department adminis-

trator Victor Lessard to the site.

On the advice of Town Attorney Robert Tasker, Mr. Lessard issued a "stop work" order to Mr. Wade. Mr. Wade challenged the propriety of the order, then ignored it. Later, town officials admitted that a stop work order was not appropriate -- that Mr. Wade

should only have been advised that the Property Owners Association was appealing Mr. Wade's building permit.

Armed with Violations

At any rate, work continued at the site through about noon Tuesday, when two DEC officers arrived and served Mr. Wade with a notice of violation and told him his permit would be revoked. During Monday evening's monsoon, DEC permit administrator Charles Hamilton, two DEC officers and former Property Owners Association president William Heneghan slogged around the

Hanff Tells All

Former Greenporter talks about his dismissal as head football coach at Westhampton. Page 6.

Tax Hike

Supervisor Murphy proposes a 8.5 percent take hike for next year. Page 6.

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site; armed with the violation notices, the DEC officers returned on Tuesday morning.

Tidal Wetlands Officer Douglas Kerr told a group of association members gathered at the scene Tuesday that Mr. Wade had violated several parts of the agreement he had made when the Albany branch of the DEC granted his permit in September of 1982. Mr. Wade was allowed only 25 cubic yards of fill on the low-lying property; town records indicate that Mr. Wade's trucks removed about 48 cubic yards of sand from the town dump on Monday, and there appeared to be at least that amount of fill on the site Tuesday morning.

Mr. Wade had agreed to put in a railroad tie retaining wall on the property; workers drove piles for a timber bulkhead over the weekend. And Mr. Wade agreed that he would build no other design except the small, octagonal home on the plans he showed the DEC. The plans filed with Southold Town show a considerably larger rectangular building on the property.

After conferring at the site with the DEC officers, Supervisor Frank Murphy notified Mr. Wade that since the DEC permit was pulled and the town's building permit was invalid, permission to use a right of way across land owned by the town Trustees was also withdrawn.

History of a Snafu

The question of access is central to opponents' objections to the project. A brief history is in order:

Years ago, according to reports, the foot of East Road was a wetland, with a natural canal running through it. (Although most accounts hold that the land mass was an island, there seems to be some dispute on that point.) Island or not, everybody seems to agree that there was a strip of open water between the foot of the road and the meadow grass.

That was before the late 1960s, when Eugene's Creek, Mud Creek and Broadwaters Cove were dredged. The spoil was to be deposited on the south side of the end of Fleet's Neck as beach nourishment.

But Leander Glover, who owned the meadow area through an old land grant before he agreed to sell it to Mr. Wade, used the spoil to fill in the canal, according to town and association officials. What was created was a solid, if low-lying, land mass from the foot of East Road to the canal at the confluence of the three creeks.

The courts finally decided that the town owned the right of way to the edge of the former canal; the town Trustees, because they control the creek bottoms,

own the crescent-shaped piece that was the canal before it was filled; and the Fleet's Neck Property Owners Association owns another crescent-shaped parcel on the south side of the neck, from the end of East Road to the entrance canal.

What all this means is that Mr. Wade's property is an island, surrounded by land owned by other parties. The owners applied to the town for control of the Trustees-owned strip, either through an easement or a deed; the Trustees voted unanimously to keep the land.

The owners then challenged the decision in court, where the Trustees' action was upheld. On appeal, the court last June sent the matter back to the Trustees "for further findings of fact."

By Land or by Sea?

Access to the property is pivotal in the association's objections to the project. The town building department issued a building permit on the grounds that Mr. Wade had access to his property from the water. Anthony Nowachek, an association member who serves as the group's attorney, told an informal meeting of members and town officials on Monday that if Mr. Wade's allowed access was by water, he had no right to bring trucks in by land. And what's more, town law requires that homes must have access to a public highway, so they may be served by police, fire departments, rescue vehicles, etc.

But what clouds the question is a letter from town Highway Superintendent Ray Dean to Mr. Wade, granting permission to use the town's 40-foot right of way from the terminus of East Road. Town Attorney Tasker challenged Mr. Dean's right to issue that permission, saying that public access did not include the right to turn a town right of way into a private driveway.

At this point, the question is academic, since the permission was revoked when the DEC filed its notice of violations and the town scratched Mr. Wade's building permit.

So for now, at least, there won't be any construction at the end of Fleet's Neck. What the future might bring, however, is anybody's guess.

"It's a mess, I'll tell you," Mr. Murphy said this week. "But whatever happens, I think there'll be quite a long delay before Mr. Wade can get started again."

The Suffolk Times left messages for Mr. Wade at the office of his firm, Wade Associates in West Babylon, but he was not available for comment.

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A Step Ahead

The Southold Farmland Preservation Program is on its way. The Town Board took its first "official" step toward beginning the process last week by hiring two appraisal firms to look over the applications from owners of agricultural properties.

We feel such a milestone should not be overlooked -- after all, it is the beginning of a program that could have a decided effect on the quality of life in Southold Town. Although the town itself will probably only be able to buy the development rights to about 500 acres of farmland, county Farmland Preservation officials are reportedly looking more kindly on acquiring the rights to Southold properties since town residents put their money where their mouths were with a local program.

Here's to wide, open spaces.

The Fleet Fight

The continuing controversy over August Wade's attempt to build a home at the end of Fleet's Neck in Cutchogue should serve as an object lesson in just how fouled up things can get if we're not vigilant in protecting our wetlands.

A case -- and a good one -- can be made for the idea that the improper filling of the property at the end of East Road would probably not be possible today, given the sensitivity of residents and officials to the importance of our natural resources. Nonetheless, it's clear that none of this hassle would have occurred had the property not been irretrievably altered years ago.

Frankly, although it's certainly too late for this kind of question, we're amazed that the property was ever considered buildable in the first place.

It's our private feeling that a home on that location would be about as appropriate as a nuclear reactor at Founder's Landing. But the question of whether Mr. Wade should be allowed to complete his home will likely be decided in the courts.

No matter what the outcome, the Fiasco of Fleet's Neck stands as a reminder of exactly the kind of thing that must be eliminated if we're to protect our fragile rural ecology.