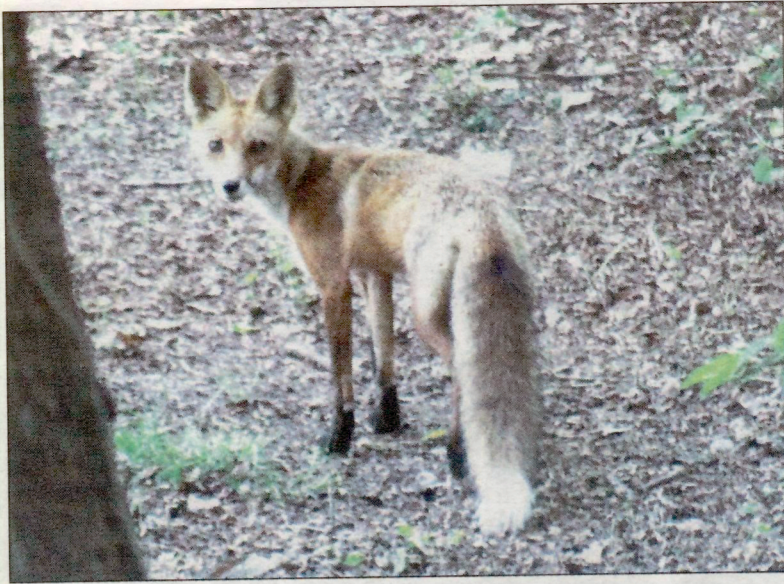




**SIGN OF THE TIME:** The Huntington Planning Board had to rescind its approval of a subdivision of the environmentally sensitive land between Bay Avenue and Vineyard Road after failing to follow the law. During a tour of the site Monday, June 3, a fox (top right) and a rare orange rhododendron (right). With a redo expected, area residents continue to fight the development plan. -David Ambro photos



# Subdivision rescinded after town failed to follow the law

By David Ambro

As a fox walked slowly across a clearing in the woods off Bay Avenue in Huntington Monday, June 3, stopping to look back at the camera click of an inquiring photographer, it exemplified how far afield the Town of Huntington Planning Board strayed in its decision to approve the Vineyard Bay Estates LLC subdivision.

After abbreviating the public comment period and after issuing a negative declaration under the State Environmental Quality Review Act (SEQRA), which means a thorough environmental impact review was not required, the Planning Board voted unanimously February 21 to grant preliminary approval of an eight-lot subdivision of eight acres of steeply sloped, environmentally sensitive woodlands between Bay Avenue and Vineyard Road.

So egregious was the town's action, that the Nathan Hale Nature Preserve, Inc., a group of residents formed to oppose the subdivision, and several of its members, Paul and Kim Thomson, Stacy Pinto, and Paul

and Karen Wadkovsky, filed a 44-page lawsuit in New York State Supreme Court March 27 challenging the preliminary subdivision approval. So far afield was its action that rather than defend itself in court the Planning Board May 29 rescinded its preliminary approval and will start the process anew. In exchange, the Nathan Hale Nature Preserve has agreed to withdraw its lawsuit and will renew its fight in the boardroom against the proposed subdivision.

"Unfortunately, although what has been agreed to was presented in writing to the Town Board and Planning Board before issuance of a negative declaration under SEQRA and before the subdivision application was approved, the resolution was passed and we had to file a lawsuit and spend tens of thousands of dollars to get the Town of Huntington to follow local laws and processes, as well as to comply with New York State environmental laws," said Mr. Thomson. "The agreement to essentially restart the subdivision application process and to move the process forward in compliance

with the law importantly affords us our rights to be heard and our concerns considered during public hearings that will determine if we can achieve our steadfast commitment to preserving this open space."

The original resolution drafted by attorneys for the town to rescind the preliminary approval said it was "due to procedural errors," language Planning Board Chairman Paul Ehrlich edited out of the final version. The resolution approved last week says only that the Planning Board "rescinds the SEQRA determination and preliminary approval resolution adopted February 21, 2024."

During a tour of the Vineyard Bay Estates site Monday, Mr. Thomson pointed out the environmentally significant characteristics of the land, rolling steep slopes with a ravine that is 100 feet deep, an undergrowth of historical wild rhododendrons planted generations ago by former owners, including a rare yellow variety in full bloom, old growth forest on land formed by the glacial deposits that created

(Continued on page 23)

## Superintendent: overdose death reporting wrong

By David Ambro

An article in last week's edition of **The Observer** about a trip by Students for 60,000 to Kermit, West Virginia included an incorrect story shared by a student about the overdose death of a fellow student in a bathroom at Northport High School.

In a letter to the school community Monday, June 3, Superintendent of Schools Dr. David Moyer said the story is incorrect, and that there was never an overdose death in a high school bathroom.

During the Students for 60,000 forum, Thursday, May 23, students were responding to questions from the audience about the commonality between students in the Northport-East Northport School District and those in Kermit and what strategies they think can be used to deal with those issues. One of the students made the point that there are drug problems in both communities and with some specificity she cited an overdose death in the high school bathroom.

Northport-East Northport School Board President Dr. Larry Licopoli was in the audience. He made a statement and asked a question during the question-and-answer period of the forum but did not address the story shared by the student about the overdose death. Students for 60,000 faculty advisor Darryl St. George spoke after the student shared the story and said "there was a lot to unpack" in what she said but he did not dispel the overdose death story.

In his letter to the school community Monday, though, Dr. Moyer dispelled the story and addressed the drug issue in the school community in general.

"I am writing to address a recent article published in the May 31 edition of the Northport Observer, which incorrectly reported a drug-related student death at Northport High School two years ago. I want to assure you that this claim is entirely false, and there have been no drug-related student deaths on our school grounds," says Dr. Moyer's letter.

"As you may be aware, drug and alcohol use is a pressing concern affecting students across the nation. Our district takes this issue very seriously and recognizes the significant impact it can have on our students' well-being," says the Moyer letter. "To combat this issue, we have implemented a comprehensive approach that begins in elementary school and continues through graduation, providing our students with a robust drug prevention curriculum that educates them on the dangers of drugs and alcohol. This is done through both ongoing work in our health curriculum as well as through initiatives like our districtwide Recovery, Awareness and Prevention (R.A.P.) Week. We are also grateful to have a dedicated drug and alcohol counselor at the high school who has expertise in this area and is available to our students. Finally, we have also established strong partnerships with the Northport-East Northport Drug and Alcohol Task Force and our local police departments to provide additional resources and support."

"I want to assure you that the safety and well-being of our students are our top priority. We will continue to work tirelessly to provide a supportive and healthy environment for all of our students," concludes Dr. Moyer's letter.

# Fighting on over Vineyard Estates subdivision

(Continued from page 3)

Long Island thousands of years ago, the passing fox, a Cooper's Hawk chased from a tree by a pair of blue jays...

A June 10, 2021, three-page report prepared by Town Senior Planner Christian Granelli provides an in-depth analysis of the environmental features of the site. They include:

- An understory of hundreds of specimens of rhododendrons planted by a prior owner who was a prominent member of the New York Chapter of the American Rhododendron Society who cultivated multiple unique varieties through selective breeding on the site which are still commercially available. There is also an understory of azalea varieties. "While not all considered species native to the region, the rarity of such a substantial collection is recognized and should be preserved to the greatest extent possible.

- The canopy of trees is an example of a coastal oak-hickory forest with a rarity rank of S3, which means that it is vulnerable to disappearing from New York, with fewer than 10 such woodlands documented statewide. They are reportedly disappearing as a result of development.

- The New York State

Department of Environmental Conservation (DEC) environmental resource mapper has determined the site is not located in an area that contains rare plants or animals listed as endangered, threatened, or rare by the state. While visiting the property January 20, 2021, however, Mr. Granelli identified a Cooper's hawk on the site, which is a species of special concern in the state as at risk of becoming a threatened species. "As the preferred habitat of the Cooper's hawk is nature forest, the applicant should preserve as much of the mature woodland area as possible," says the Granelli report.

- The site is located within Suffolk County Groundwater Management Zone VIII, which is a shallow groundwater flow system. The United States Geologic Survey (USGS) estimates the depth to groundwater at 35 feet along Vineyard Road to 122 feet along Bay Avenue. "Clearing should be minimized to the greatest extent possible to reduce the impact of the proposal on groundwater," says the Granelli report.

- The coastal oak-hickory ecological community is known to be a suitable habitat for Northern long-eared bats, which are listed by the United States Fish and

Wildlife Services and DEC as a threatened species. DEC recommends that tree removal within suitable habitat for the long-eared bat be limited to the full extent possible and only done between December 1 and February 28.

Mr. Thomas said these are some of the issues that area residents and the Nathan Hale Nature Preserve, Inc. were precluded from addressing during the public review process because the Planning Board was unfair with its approach at public hearings. He also said that on the environmental assessment form (EAF) submitted by the developer, many of the issues cited by Mr. Granelli were not adequately addressed.

For instance, he pointed out that a question on the EAF that asks about the predominant wildlife species that occupy or use the site, it only says "squirrels, rodents, and birds native to the area."

The resolution to rescind its approval approved by the Planning Board last week is stipulated to by the special counsel for the town, Donna Napolitano, of the Garden City law firm Berkman, Henoch, Peterson & Peddy, PC., the attorney for the developer, Michael McCarthy of Huntington, and the attorney for the Nathan Hale Nature

Preserve, Inc., Timothy Hill, of the Sayville law firm Perillo Hill, LLP. They signed the stipulation May 24 in advance of the May 29 approval by the Planning Board.

In the lawsuit against the town, Mr. Hill argued that the preliminary approval of the Vineyard Bay Estates subdivision is "contrary to law, premised on an error of law, arbitrary and capricious, irrational and unsupported by evidence, lacking a rational basis and contrary to the Town's laws and procedures."

The lawsuit alleges that the town failed to adequately take into consideration the town's steep slope ordinance enacted in 2005, which the Vineyard Bay Estates landowner opposed at the time yet nonetheless chose to purchase this property. The intent of the steep slope ordinance, according to the lawsuit, is to protect and safeguard scenic landscapes and vegetation such as the land where the development is proposed for the Vineyard Bay Estates subdivision, and protect adjacent landowners from the adverse impacts of development.

The lawsuit also alleges that the Planning Board failed to conduct the public hearing in compliance with town law and failed to comply with

SEQRA in making a final determination of significance. "Here, the Planning Board, designated as lead agency, did not make its SEQRA determination of significance until February 21, 2024, the very same day it passed the [preliminary approval] resolution," says the lawsuit. "The SEQRA determination is itself defective and must be annulled because the Planning Board did not take a 'hard look' at the environmental issues prior to issuing its determination, did not identify all areas of environmental concern, and did not make a reasoned elaboration for the basis of its determination. Further, the Planning Board's SEQRA determination was not based upon public input, and no hearing was held or noticed for SEQRA purposes."

"Separate and apart from the above, the entire process and any proceedings before the Planning Board was excessively accommodating to the applicant and unnecessarily hostile to the public," writes Mr. Hill in the lawsuit.

**(Editor's Note:** Anyone interested in a copy of the Nathan Hale Nature Preserve, Inc. lawsuit can email [The Observer at info@smithtownnews.com](mailto:The Observer at info@smithtownnews.com).)

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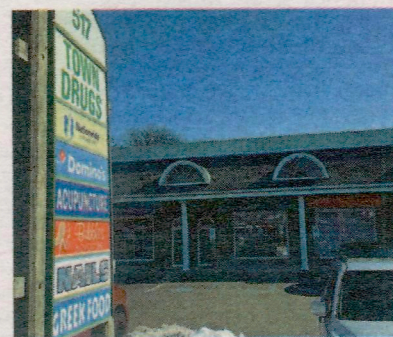


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# Editorials & comments



The lush hickory-oak forest between Vineyard Road and Bay Avenue in Huntington which is under threat of development if the Huntington Planning Board gets its way.

## Vineyard Bay Estates exemplifies land-use shortfalls

The resolution approved by the Huntington Planning Board last week to rescind the Vineyard Bay Estates preliminary approval is indicative of all that is wrong with the Huntington Town government when it comes to land use applications.

The Planning Board is so hell-bent on approving development applications that it holds the public in contempt. Town government should be, and had

once been, just the opposite. Land use boards should be dedicated to protecting the public's interests and quality of life rather than providing a rubber stamp to every development plan that comes up.

In the case of Vineyard Bay Estates, the Planning Board February 21 granted preliminary approval to an eight-lot subdivision of 7.93 acres of land that is one of the most environmentally precious pieces of property in the Town of Huntington—in the state for that matter. It is one of only 10 oak-hickory forests left in New York. The threatened Cooper's hawk has been identified on the site. It is a habitat for the threatened Northern long-eared bat. It is also unique in that the understory was a planting field a century ago for rhododendrons, several unique varieties were created there, and an unusual orange flowering rhododendron is in bloom on the property right now.

Despite all that, the Huntington Planning Board decided under the State Environmental Quality Review Act (SEQRA) that no further environmental review is required. It is a determination made based on an environmental assessment form provided by the developer which identifies the wildlife on the site as "squirrels, rodents, and birds native to the area."

Beyond SEQRA, the Planning Board failed to adequately take into consideration the Town Steep Slope ordinance. And, the board failed to comply with town law related to the conduct of its public hearings.

Residents who oppose the Vineyard Bay Estates subdivision, organized as the Nathan Hale Nature Preserve, Inc., were outraged by the Planning Board's conduct and filed a lawsuit in New York State Supreme Court March 27 challenging the approval.

They were represented by Timothy Hill of the Sayville law firm of Perillo Hill, LLP. In his 44-page complaint to the New York State Supreme Court, Mr. Hill summed up the Planning Board's contempt for the public. "Separate and apart from the above, the entire process and any proceedings before the Planning Board was excessively accommodating to the applicant and unnecessarily hostile to the public," says the Hill legal brief.

That says it all. It is what the town government has become when it comes to land use issues,

excessively accommodating to developers and unnecessarily hostile to the residents. It has become so bad that it is threatening the quality of life in Huntington.

The Vineyard Bay Estates case is no different than the Indian Hills development approval, except that the culprit was the Zoning Board of Appeals being excessively accommodating to developers and unnecessarily hostile to residents. The outcome was the same, a decision to develop environmentally sensitive land and the public whose quality of life was at stake be damned.

So egregious was the behavior of the Planning Board in the Vineyard Bay Estates case that after it was sued by the residents, rather than offer a defense the Planning Board voted May 29 to rescind its February 21 approval and start the process over again. It didn't admit to violating SEQRA, the public hearing process, the steep slope ordinance, but the admission is there in the resolution to rescind its earlier decision. It exemplifies a very serious problem the town is facing—summed up by Mr. Hill as excessively accommodating developers and unnecessarily hostile to the public, Huntington residents, homeowners, and voters.

In the case of Vineyard Bay Estates, rather than excessive accommodation to the subdivider, this is a case where the government should try everything in its power to preserve this land. It should never be developed. The same holds true for Indian Hills but they are already bulldozing that site. And, the same holds true for a lot of other land-use applications in Huntington.

The town government's land-use approach has to change. The excessive accommodation should be to the public and there should not be a perception of unnecessary hostility to anyone. There has to be depth to the review and protections to the community where development is being proposed and there has to be a well-thought-out pattern of growth.

Allowing a restaurant expansion that relies on valet parking across the street or up the block, is not an appropriate site plan review. And, contemplating land-use laws that allow 90% lot coverage with four-story apartment buildings is going to destroy Huntington as we know it.

### Correction...

In an article in last week's edition of **The Observer**, the name of one of the students who spoke during the Students for 60,000 forum in the Little Theater at the high school was incorrectly reported. Her name is Grace Mulroy.

## The Observer

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