

**ZONING BOARD OF APPEALS  
SATURDAY, JULY 15, 2017  
3:00 P.M.**

**Present:** Chairman Robert Treuhold, Charles Mott, Alexander Ames, Brendan Ryan, Bruce Peiffer, and Village Attorney Richard DePetris

**Absent:** T. David Mullen

1) Mr. Treuhold brought the meeting to order. He indicated that there was a quorum present and asked for a motion to approve the minutes of the **June 17, 2017** meeting.

**MR. RYAN MADE A MOTION TO APPROVE THE MINUTES OF THE JUNE 17, 2017 MEETING. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

2) Mr. Treuhold said the next meeting would be held on **Saturday, August 19, 2017, at 3 PM.**

3) The first item for discussion was the holdover application of **Paul and Margaret Whyte of 202 Dune Road. SCTM #902-16-2-21.**

Mr. Treuhold said the board had received some new materials, and a request to adjourn the application. Attorney Kittric Motz explained that her clients would have new drawings available for review early the following week. Mr. Treuhold asked for a motion to adjourn the Whyte application.

**DECISION: MR. AMES MADE A MOTION TO ADJOURN THE WHYTE APPLICATION. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

4) Next was the holdover application of **Post Girls LLC** of 158 Dune Road for a written decision. **SCTM #902-16-2-2.4** Attorney **Kittric Motz** was present for the applicants. Mr. Treuhold asked for a motion to accept the written decision into the record.

**DECISION: MR. AMES MADE A MOTION TO ACCEPT THE POST GIRLS LLC WRITTEN DECISION. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

5) Next was the holdover application of **Anthony and Linda Racioppo** of **28 Bay Road**. **SCTM #902-6-1-23.7** Mr. Treuhold said the Board had received a request to reopen the application. He asked for a motion to reopen the Racioppo's application.

**MR. RYAN MADE A MOTION TO REOPEN THE RACIOPPOS APPLICATION. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

Mr. Treuhold asked attorney **Kittric Motz**, representing the Racioppo's, if she wanted to comment on the revised survey. Mrs. Motz explained that her clients were working hard to minimize the amount of relief they were requesting. She explained that the pool house plan originally had a bump-out that was now shown on the survey as having the back area straight across, reducing the setback relief requested by 25% and making it now a 2.7-foot relief being requested. She explained that since the last meeting, there had been a substantial amount of screening planted between the two properties. She also wanted to acknowledge receipt of all letters from the neighbors at **32 Bay Road**, the **Beinhorns**, in opposition to the application. Mrs. Motz explained that she went to the Village Office and got a copy of the Beinhorn's survey which showed that their home was 37.4 feet from the property line. So, if their house was 35 feet from the property line and the Racioppo's pool house had no mistakes, and was therefore 35 feet from the property line, then they would be essentially the same distance apart, except for 4 inches. She felt that for the Beinhorns to say that granting the variance would impinge on the property values of their home, would be overstating things. Mrs. Motz explained that the trees spoken of in the Beinhorn's email, were trees that were actually on Mr. Racioppo's property, and she submitted photos to the Board of the trees, for their review. Mr. Treuhold asked for a motion to adjourn the application for a written decision.

**DECISION: MR. RYAN MADE A MOTION TO ADJOURN THE RACIOPPO VARIANCE REQUESTS TO THE NEXT MEETING FOR A WRITTEN DECISION. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

6) Next was the application of **Shelly H. Marks** for a variance in order to permit proposed elevated walkway with a setback of 5 feet from the westerly lot line. Premises are known as **234 Dune Road**. **TM #902-16-3-27.1 + 902-16.1-1-1**

Attorney **Robert Kelly** was present for the applicant **Shelly Marks**, who was also present. He explained that house **#236 Dune Road** was close to the road and house **#234 Dune Road**, his client's house, is closer to the ocean. The Board asked if the application was being made by the condominium association? Mr. Kelly explained that it was being made by his client only,

although both owners were cited by the building department for not having a walkway over the dunes. Mr. Kelly explained that his client did have a walkway that came straight down the center of the lot. Although at times the walkway is buried in the sand, his client constantly works to keep it cleaned off. His client proposed to remove or abandon the existing walkway, and put install a boardwalk five-feet off the west side. Using the survey, Mr. Kelly showed the Board the exact placement of their proposed walkway. He felt the proposed walkway would be an improvement from an environmental and safety standpoint, and it would be typical of what is already in the neighborhood. The Board wanted to know why the two neighbors were not able to come to an agreement on the walkway. Mr. Kelly explained that he and his client were under the impression that the neighbor at 236 Dune Road was using a path that wandered out and over the property to the east of theirs. The Board felt it should have been a matter of law that the condominium association should be coming forward to request relief for a single walkway as opposed to one of the owners seeking their own walkway. They also felt it would be premature to grant relief to one of the two condominium owners until there was a joint request by both condominium owners for a walkway. Mr. Kelly explained that his client lives in her condominium all year round while her neighbor rented out her condominium. He did explain that the condominium association does have By-laws and an Offering Plan but they did not address walkways and the like. The Village Attorney explained that under the condominium form of ownership, as one overall property, the two-unit owners have undivided interests in the common elements, therefore, both neighbors should have joined in the variance application. Mr. Treuhold said the Board would be willing to adjourn the matter without making a decision one way or the other. The Board would hope that the two owners could come back with a proposal for a single walkway that would address both owner's interests. **Mrs. Biroll**, the owner of **236 Dune Road** came forward to say she wanted to get together with her neighbor, the applicant, but Mrs. Marks refused. Mrs. Biroll said she owned 52% and Mrs. Marks owned 48%. She expressed that she would like to meet with Mrs. Marks and decide where to put the walkway. Mr. Treuhold said the Board would like to adjourn the application. He also asked to have the condominium Articles of Association, By-laws and/or the Deeds submitted to the Board for review. It was also suggested that since they were requesting very substantial set back variances from the westerly line, the owners should consider alternatives. The Board also requested to be provided with information on the adjoining properties to the west. Mr. Treuhold asked for a motion to adjourn the application.

**DECISION: MR. RYAN MADE A MOTION TO ADJOURN THE MARKS VARIANCE REQUEST. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

7) Next was the application of **John Morgan** for yard (setback) variances to 24 feet from the northerly line, 24.1 feet from the easterly line and 42.6 feet from the westerly line (36.6 feet from right of way indicated on survey) in order to permit proposed one-story addition to existing house. Premises are known as **15 Edgewood Road. TM #902-9-2-16**

The owner, **John Morgan**, was present for the discussion. He explained that he wanted to retire to the house in question, and have his bedroom on the first floor. He proposed to push out the back end of the house 5' 9" to construct the master bedroom and bath. He had two bedrooms and baths upstairs, but wanted to use them as for guests. He explained he had already fallen down the very steep stairs to the second floor, so preferred to have his bedroom and bath on the ground floor for safety reasons. He proposed no changes to the second floor. Mr. Morgan had spoken to all his neighbors except the Winters, who lived behind him. He said he could not get in touch with them, although he had tried. He felt the homeowners on the eastern side, would not be effected by his changes because there is a second parcel between them. The Board wanted to know if Mr. Morgan could relocate the shed to a conforming location, as it was too close to the property line in its present location. After looking at the survey, and a suggested location to which he could move the shed, Mr. Morgan agreed he would relocate the shed to a new location. Mr. Treuhold asked for a motion to grant the application.

**DECISION: MR. AMES MADE A MOTION TO GRANT THE MORGAN VARIANCE REQUESTS PROVIDED THE SHED IS MOVED TO A CONFORMING LOCATION. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

8) Next was the application of **By The Sea LLC** for a setback variance to 16 feet from the westerly lot line in order to permit proposed generator. Premises are known as **146 Dune Road. TM #902-16-2-1.5**

Mr. Treuhold said the Board received a request to adjourn the application. He asked for a motion.

**DECISION: MR. AMES MADE A MOTION TO ADJOURN THE BY THE SEA LLC VARIANCE REQUEST TO THE AUGUST MEETING. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

9) Next was the application of **Hiram and Myung Cody** for a rear yard variance to 52.2 feet and a height variance with in a required rear yard to 20.04 feet in order to permit proposed one-story addition to existing house and for setback variances to two feet from northwesterly side line and 4.9 feet from rear lot line in order to maintain an existing shed. Premises are known as **4 Ocean Avenue. TM #902-10-1-31.**

Attorney **Kittric Motz** was present for the applicant, **Dr. Cody**, who was also present along with his architect **Gabriella Albini**. Mrs. Motz explained that it the parcel is an undersized lot and the owners were proposing to add a one-story addition in the rear yard for which they would need relief. Mr. Motz showed the Board photos of the house and its position on the property. She explained that Dr. & Mrs. Cody proposed to reconfigure the layout of the first floor putting a master bedroom there since they plan to retire to the premises. They also propose to install a

basement in the home. At the present, the house is farther back from the street than is required, so to minimize the rear yard relief request, they propose to pick up the home and move it to the conforming street location setback of 60 feet. They would only be raising the house six inches and the principle residence will not need height relief. The height relief is only for the top four inches of the addition. They were also proposing to install a new sanitary septic system. With respect to the roof of the new addition, the architect explained that they proposed a standing-seam metal roof. They could then add solar panels to it. In reference to the shed, Mrs. Motz explained that in 1992 Dr. Cody had tried to get a variance to replace an older 7' x 10' garden shed, but the variance was denied on technical grounds without prejudice, as the application was incomplete. He did end up getting a building permit though and built the shed that is presently on the property. He has no garage, so he would like to maintain the shed that is presently on the property. Mr. Treuhold asked for a motion to approve the Cody application.

**DECISION: MR. AMES MADE A MOTION TO GRANT THE CODY VARIANCES. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**10)** Next was the application of **Solomon and Linda Cohen** for front yard variances to 39.2 feet, 37.5 feet and 32.7 feet from Quogue Canal and 12.67 feet from boat slip in order to maintain elevated deck and second story deck, shower and bathroom within the footprint of the elevated deck. Premises are known as **41 Dune Road. TM #902-13-1-4.**

Attorney **Kittric Motz** was present for the applicant. She explained that Mr. Cohen had obtained a building permit in 2004 to construct the house that is on the premises. It seems that at the end of the construction the builder, Mr. Oneil, died and never closed out the building permit to obtain a final certificate of occupancy. Issues arose, and Mr. Cohen was advised by the building department to take care of them. Mrs. Motz finally got involved and now they have obtained health department approval. Now they are trying to get zoning issues taken care of. Mrs. Motz explained that the proposal and survey from 2004 clearly showed a proposed elevated pool and deck. The Board said that the bulkheading that is shown wasn't on the earlier survey. Mrs. Motz presented photos from 2012 showing that it is lattice work, not bulkheading, around the piling or support structure. She explained that the reasoning that supported the granting of the 1983 variance is still the same, and authority was granted to build the pool in the location where it was she felt the same logic applied to the home now, in its current configuration. The Board explained that the building permit should not have been issued for house and the above ground pool, especially not without receiving a variance, as it increased the degree of nonconformity. The Board felt that now was the opportunity to clean up a bad situation. Mr. Treuhold explained that the Board should adjourn the application to give Mrs. Motz time to research the files to see if there is any supporting documentation going back to 2004 which could help them understand whether it was just an error on the part of the building inspector or what. Mr. Treuhold asked for a motion to adjourn.

**DECISION: MR. AMES MADE A MOTION TO ADJOURN THE COHEN VARIANCE REQUEST TO THE NEXT MEETING FOR MORE INFORMATION. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**The meeting was adjourned.**

**Respectfully submitted by: \_\_\_\_\_ File date: \_\_\_\_\_**