

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
SATURDAY, AUGUST 22, 2020
3:00 P.M.**

Present: Chairman Robert Treuhold, Brendan Ryan, Bruce Peiffer, Pamela Chepiga, Geoff Judge, alternate Ed Tolley and Village Attorney Wayne Bruyn (all by telephone)

1) Mr. Treuhold brought the meeting to order and noted that this meeting was being held by teleconference due to the COVID 19 Governor's Orders. Mr. Treuhold asked for a motion to approve the minutes of the July 18, 2020 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE JULY 18, 2020 MEETING. MS. CHEPIGA SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) Mr. Treuhold confirmed that the next meeting would be held on **Saturday, September 19 , 2020 at 3:00 P.M.** At this date it is not known if the meeting will be live or by teleconference. This will be determined before the notice goes out. **(Subsequently rescheduled to September 26, 2020)**

3) Mr. Treuhold noted the recent changes to the membership of the Zoning Board. Mr. Mott has made the decision to step down after 50+ years on the Zoning Board. Mr. Treuhold wanted the record to state how much both the Board and the Village appreciate all of his decades of service. Geoff Judge will move up to full member of the Board, and Ed Tolley will take his place as alternate member.

4) The first new matter on the agenda is from **Russ and Tanya Mandor of 30 Foster Road, SCTM# 902-4-1-21.3**. This is an application for a lot coverage variance to 21.1% in order to permit existing improvements. Attorney Robert Kelly was present for the applicants. He reviewed the application and said that his clients bought the property and then finished the house in 2001. In 2012, they were granted a building permit for an addition to the property. On the property survey revised 9/26/12, the covered slate patio was present, and the Town and Village aerial photos confirm this. The area in question is the patio up by the stucco wall. The lot coverage listed on this survey is 20%. On the final survey, somehow the line of the patio is not

there, and the survey confirms lot coverage of 20%. Mr. Kelly was not sure if the patio was built when the house was built, but it was there when the building permit was issued for the addition. Now in 2019, the Mandors were straightening out an issue with the road and the berm, and a new survey by a different surveyor was completed. The new survey showed the property lot coverage at 21.1%. Mr. Kelly said that this was lot coverage error on the 2012 survey, and discovered on the 2019 survey. Mr. Kelly thought that the previous Building Inspector did not count steps toward lot coverage, and that also contributed to the lot coverage difference. Mr. Nowak would not issue an updated C of O due to the overage in the lot coverage and suggested that a variance be applied for. Mr. Kelly noted that the neighbor most effected, Nina Lawson, submitted a letter that she has no objection to this variance being granted. Mr. Treuhold asked if anyone had any questions on this application. No one did. Mr. Treuhold asked for a motion to approve the requested variance.

GEOFF JUDGE MADE A MOTION TO APPROVE THE REQUESTED VARIANCE. PAMELA CHEPIGA SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) The next matter on the agenda is the application of **Brendan and Rose Lavelle of 45 Dune Road SCTM# 902-13-1-6**. The application is for a setback variance in order to permit swimming pool with a setback of 16.1 feet from boat slip. Attorney Kittric Motz was present for the applicants. Mrs. Motz reviewed the application and noted that the boat slip had to be shifted to avoid any damage to the neighbor's pool, as explained in the letter in the application. Mr. Treuhold asked if anyone wanted to be heard or had any questions. No one did. Mr. Treuhold asked for a motion to approve the requested variance.

BRUCE PEIFFER MADE A MOTION TO APPROVE THE REQUESTED VARIANCE. PAMELA CHEPIGA SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

6) The next matter on the agenda is the application of **Flavio and Renata Figueiredo of 26 Quaquanantuck Lane SCTM# 902-11-2-25**. The application is for a front yard variance to 48.5 feet from Halsey Lane and a height variance within required yard to elevation 42.23 for proposed house and a street setback variance to 53.61 feet from Halsey Lane for the proposed patio. Kittric Motz was present for the applicants. Mr. Treuhold noted that he had received an email from a group of neighbors asking for this matter to be adjourned, as they only recently received notice of the application. One neighbor has submitted a letter in opposition, and others have asked for more time to review the application. Mr. Treuhold said the Board will hear the application today, but will hold off on making a decision at this time. Mrs. Motz reviewed the application and said the property has three street setbacks which make the design of the house very difficult. She noted the rear property setback by the Kelly residence is in compliance, as well as is most of the property. Mrs. Motz explained that the setback requested from Halsey Lane, is from a private road only used by two properties. One of the property owners, who also

own the road, is in support of the application. She further reviewed the property and the requested variances. She noted that the height relief is only being requested in the required yard, not for the entire house. She also pointed out that there are other two story houses on the block and the surrounding area. Mrs. Motz explained that these variances are minor and respectfully asks that they be granted. Mr. Treuhold said that the Board had a few questions. He said that the proposed driveway shows a large access to Halsey Lane which is a private road, and asked if permission for this had been granted from the owner of the road. Mr. Peiffer also posed the question regarding Halsey Lane access. Mrs. Motz said the driveway is not a critical point in this application and can be resolved or relocated. Mr. Treuhold asked if a proposed survey could be submitted showing more detail, for instance where the pool equipment and generator would be located. Mr. Treuhold also noted that while the lot coverage was in compliance, but it is close. Mrs. Motz said in the past, architectural site plans have been accepted, and is acceptable in the ZBA instructions. Mr. Peiffer would like to see an as proposed survey as well and should include the dimensions of the driveway as well. Mr. Treuhold said that in addition to the proposed survey the Board, he would like the Figueiredos to meet with the neighbors to discuss their concerns. He asked if Kittrick would meet with her clients to see if they could reconfigure the plans to only ask for the minimum variances possible, seeing how this is a new build. Wayne Bruyn, Village Attorney asked how the proposed front yard setback compared to others in the area. Mr. Bruyn said the driveway issue is an integral part of the application and should be addressed. Marcia Bradley expressed her concerns and asked how the neighbors would go about getting more information about this application. Tim Kelly of 31 Quaquanantuck Lane spoke about his concerns about the design of the structure. Bruce Peiffer explained that the design of the house would not be a Zoning Board issue. Mr. Kelly of 3 Leaward Lane also raised his concerns about the practical difficulty of the design of the home creating the need for these variances. Mr. Erdman explained that the neighbors have not had enough time to review the application, and asked how they would go about getting support from the Village to better understand the process. Mr. Treuhold suggested the neighbors make an appointment to review the full size plans in the Village Office and ask Mr. Nowak to further explain the variances requested. Mrs. Motz asked if the Board had any further questions. Mr. Treuhold said they would like to see on the survey where the cesspools would be located, as well as the pool equipment and generator. Mrs. Motz said Mrs. Figueiredos will reach out the neighbors. Mr. & Mrs. Figueiredos both spoke and said they will try to organize a meeting with the neighbors to review the application. Mr. Treuhold asked for a motion to adjourn this application until the next meeting.

MR. PEIFFER MADE A MOTION TO ADJOURN THE APPLICATION UNTIL THE NEXT MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

7) Mr. Treuhold said that the next two holdover matters **61 Dune Rd** and **160 Dune Road** have both asked for adjournments until the next meeting. He asked for a motion.

MR. RYAN MADE A MOTION TO ADJOURN THE APPLICATIONS UNTIL THE NEXT MEETING. MRS. CHEPIGA SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

8) The next matter is for the holdover application of 192 Dune Road. Michael Nobiletti was on the phone call representing the applicants. Mr. Nobiletti reviewed the additional information that had been submitted. He explained that he felt that the variances they were asking for were the minimum. He also reviewed the environmental mitigations that have been done to the properties, and the lot coverage. Mr. Treuhold asked if anyone on the Board or on the phone had any questions. No one did. Mr. Treuhold explained that Mr. Nowak will have to review the materials and locations of the walkways. Mr. Treuhold said that this walkway variance will only remain in effect as long as the two properties are owned by the Moinians, and asked that they get in touch with Wayne Bryun, Village Attorney, to word the covenant that would need to be attached to the deeds. Mr. Treuhold asked for a motion for the following:

A MOTION HAS BEEN MADE BY MR. PEIFFER TO APPROVE THE REQUESTED VARIANCES SUBJECT TO THE IMPOSITION OF A COVENANT THAT THE WALKWAY VARIANCE WILL ONLY REMAIN IN FORCE AS LONG AS THE TWO PROPERTIES ARE OWNED BY THE MOINIAN FAMILY. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

9) **The application of The Quogue Club was next. Mr. Treuhold & Mrs. Chepiga recused themselves. The discussion was as follows:**

Robert Treuhold: That takes us to the last matter on today's agenda which relates to the application by The Quogue Club to extend the consent that was granted at the June meeting permitting outdoor dining subject to all of the conditions that were issued at that time, ie: ending no later than 7:30, and the request was for that relief to extend through Monday September 7, which is the Monday of Labor Day weekend. As with the meeting in June, I will be recusing myself from this decision given my role at The Quogue Club, and I have asked Brendan Ryan to Chair this discussion, this portion of the meeting. I pass this to you Brendan.

Brendan Ryan: Ok, I think this is simple, Kittric, do you want to add some - I think we have all read the submission, if you would just like to summarize it briefly, we can come to a conclusion, I think.

Kittric Motz: Ok, well in brief, our request is that in view of what has been a largely successful summer experience with the outdoor dining, and in view of the continued COVID pandemic, and the continued concerns people have for wanting, you know a preference for outdoor dining as

opposed to indoor dining, and the reasons stated in our communications, I would respectfully request that it be extended.

Brendan Ryan: Ok, and does anyone else wish to be comment on this?

Roger Moley: Is Jim on the phone, Tolan? This is Roger Moley here.

Jim Tolan: Yes, Jim is here, but you go ahead, you go ahead Roger.

Roger Moley: All right, well I have a little bit of a summary here, and I apologize if it is a little long. Thank you guys again for being here in the middle of the day. Two months ago, after spirited arguments on both sides and careful deliberation, the Zoning Board gave The Quogue Club a temporary allowance to provide limited outdoor dining to its members, an allowance that was to end on Labor Day weekend. A week ago, without any advance notice from Club Officers, without any notice to me or my wife, we learned through Jim that the Club would be filing for an extension at the next Zoning Board meeting, this one. Ok, I get it, New York is in the midst of a pandemic, and our Club currently has limited indoor dining, and members really like to eat outdoors. I called the Club President and was told that some members won't eat at the Club unless they can do so outdoors. It didn't seem to matter that the Club has a robust takeout business, and many members do eat indoors, that the Club continues to collect dues and annual minimums, hundreds... And that it has been up and running for most of the summer. When I asked how business was doing all I got for an answer was that it was "not as good as in the past" My suspicion is that absent of a financial accounting to me and the other members, the Club's business is doing reasonably well, certainly a lot better than public restaurants which have no members to pay for it and its employees in a COVID world, and I have a feeling that business this winter will actually be better than last year's, since so many members will remain out here. Believe me, I really want the Club to do well. As I have said before, I am a charter member as well as a neighbor of The Quogue Club and I have enjoyed using its amenities for years. Maybe not so much this summer when I've been made increasingly to feel uncomfortable going there due to my adversarial position regarding the matter under discussion today. On Thursday, I received a copy of Kittric's rebuttal to Jim's most recent letter, which I assume you all have read and have now heard her brief representation for the extension of outdoor dining by The Quogue Club. Essentially the Moley's position has not changed since earlier this summer. I do not have to read you my letter to the Zoning Board from June 17th, nor do I want to restate the unanimous objections we and the other six families stated on the record that month regarding The Quogue Club and outdoor dining. I do want to say that we are trying to be generous during what us a difficult time for us, for us all. But, in reading Kittric's letter, it struck me that she failed to note or even respond to the last paragraph of Jim's letter stating that residents who live adjacent to The Quogue Club in the hopes of collaborate neighborliness would not oppose an extension as requested provided that the Club expresses on the record its intention not to seek in the future outdoor dining once the pandemic is over and the restrictions on indoor dining have been lifted. The fact that Kittric and the Club founders have failed to address this more than reasonable request is telling. It indicates to us that the Club has no intention to stop petitioning the Zoning Board until it gets what it really wants, outdoor dining above and beyond COVID restrictions. All we want is an assurance that this is a temporary allowance resulting in restrictions imposed

on restaurants during the crisis, and an assurance that the Club will not seek permanent outdoor dining once the pandemic has passed, and has full indoor seating capacity. 3 Quogo Neck is the only home that my wife and I own, we live here full time. I do not want to hear diners chatting and glasses clinking 5 days a week for the rest of my life, and I don't want the value of my home to depreciate by commercial entities desire to expand what its original contract was, should have been to provide a service to its members while being respectful to its residential neighbors. I have kept my mouth shut as larger and larger dumpsters have been installed just a foot or two from my driveway entrance. Was that in the original blueprint Zoning Board? While loud and humongous sanitation trucks block traffic numerous times during the week as they collect the Club's growing amounts of trash at one of Quogue's most iconic streets. Permanent outdoor dining with proportionately more tables, diners and trash will not alleviate this problem. It will make it worse. The strong belief that outdoor dining, temporary or permanent is somehow its birthright is as callous and insensitive as it is wrong. As I have said before, we have no problem being generous during COVID 19, but we strongly feel that the Club should not petition the Zoning Board for outdoor dining once this pandemic is over and its full indoor dining allowance is restored. Thank you.

Brendan Ryan: OK, thank you Roger. Jim do you want to add to the conversation?

Jim Tolan: I would just like to make a few observations. One observation is that I am a little upset and I am upset not just for the homeowners, but I am upset for the Board. The most recent correspondence from my learned colleague to the Board shifts in my opinion the possibilities of families losing their jobs, private enterprises being harmed, living wages diminished, all because they can't have outdoor dining. And who is that to blame? Obviously, if the Board refuses to grant the variance requested, it is the Board's fault, or it's the homeowners' fault for opposing it. I find that kind of argument by the Club to be beyond belief. Secondly, I'd like to note that in the recent submission by my learned colleague she talks about the negative ramifications as well as the financial hardship that is before the Club. The fact of the matter is, there is not as far as I'm aware anything on record there is nothing submitted by a Club Officer, Director, Chief Financial Officer that in any way, manner, shape or form could support that statement of financial difficulties. Moreover, I would note that in the last minutes of the meeting on June 20th it is clearly stated by my learned colleague that financial difficulties or financial problems are not a basis of the seeking of the extension. So, I would step back and say that they have not submitted anything at all that would warrant the extension beyond the end of Labor Day, excuse me. And finally, I do think that the concession that arose out of the last meeting whereby and I must note this also for the record, that the minutes do not show the question that I think was by the Chairman Mr. Mott to my learned colleague Mrs. Motz about whether or not the Club would be agreeable to an earlier termination date rather than the one in the earlier request. My recollection and my notes reflect at that time my learned colleague consulted with somebody from the Club and got back on the telephone and said they would go along with an earlier date. Now I believe that that bargain if you will may have been instrumental in the decision by the Board the last time and I think that having made that decision, having made that bargain and now going back and seeking additional time through October 12th is not right. I think the Board acted the last time, it was reasonable, it was not at all unfair and it should stand, thank you very much.

Brendan Ryan: Ok well certainly glad to be the temporary Chairman here. To explain what's going on, there are only three of us on the Board who are not connected to The Quogue Club. That's myself, Bruce Peiffer, and Ed Tolley. Would either of you like to speak first? I would like to say something first before going on to anybody else. This discussion, decision has absolutely nothing to do with changing the basic premise, the underpinning regulations if you will that was put in place when The Quogue Club was first approved. There is no intention to be open to the discussion of permanent outdoor dining, ever. That's our going in assumption as members of the Board. There is nothing on the table, nothing intended to be on the table that has to do with that. This is about the extension of outdoor dining until 7:30 for an additional 5 weeks due to the continuing prevalence of the COVID situation. So just to be clear what we are talking about is straight forward, it's about 5 additional weeks of dining outdoors until 7:30 in the evening. Nothing beyond that, there is no openness on the part of the Board to discuss that or hear anything about it. So, with that Bruce, Ed would you like to comment on the request to allow the additional 5 weeks.

Bruce Peiffer: Oh god yes, I would like to comment. I've been commenting all night long. I agree with that. We have certainly, we have monitored any complaints as far as noise and believe that the Board has been ready to shut it down if we had gotten any complaints as far as the noise or as far as the people that just, were just disrupted in the neighborhood and we didn't get anything. I've personally, I've had dinner there outside, the Club has been very respectful for the 7:30 hour that we, everybody, the Club members thought, we took a little bit of you know what from the Club members saying oh man, it's 7:30, but we thought that was fair to the around that, and unless you have a granny that's sick or something that basically anybody is in bed at 7:30 at night. I live across the street from The Field Club so I know what noise is also. But basically, the Field Club is respectful and I think The Quogue Club has been respectful. I'm in agreement to allow the extension to October 12th. However, I will say to the rest that I hope you would have a little faith, more faith in us as a Zoning Board to uphold something. You know I understand that you think this is a slippery slope, and the minute you know that they get a little bit, and before you know it there is going to be permanent dining. And you know, this is a case by case, this is a very unusual serious world that we are living in right now and everyone is trying to help everyone else, including our neighbors, and our neighbors are The Quogue Club. Yes, it is a commercial establishment on residential zoning, we all understand that, but half our citizens are members of the Club also, and I don't think it's unreasonable and I'm willing to grant to October 12th. And I think that's not unreasonable, I think that's fair to everyone and again it will only be until 7:30 at night and the tables need to be clear, so.

Brendan Ryan: Ed, in the very quiet peaceful Zoning Board, would you like to add a comment?

Ed Tolley: It's Ed Tolley, the newest member of the Zoning Board. I find myself very objective on this, I think, I hope I'm objective. But I find it to be a reasonable adequately circumscribed short term, tied directly to the virus and the related restrictions and Roger and Jim you won't get any slippery slope from me so I'm in favor of the decision as well.

Brendan Ryan: Ok, thank you Ed. Ok, just kind of to wrap it up, let me go back to how we came to the decision back in the first place as the Board. Because most nearly every Zoning Board

issue is a very quantitative question. It's how many feet this way, that way, it's not as subjective as this tends to be. And what we tried to do back then and what we are trying to do right now is to put ourselves in both the shoes of the neighbors and The Quogue Club. I don't live right nearby so I'm not impacted. I'm not a member of the Club, so I'm not impacted. So, what we tried to do and I think we did do and I think most people were at least okay with it was to come to a reasonable conclusion, which was instead of the requested 9 pm, come to 7:30 pm and everybody out by then and it seemed to have worked extremely well. Whereas Bruce mentioned, there have been no instances where, that we were aware of, where there was any disturbances to anybody after 7:30. So, unlike the last time now we have some quantitative evidence that suggests that this is not an undue hardship on anybody. So, I think what we would like to do as a Board is agree to extend until October 12th, I think is the date, 7:30, but absolutely, unequivocally, categorically, in writing, this is a COVID related event, it is only until that time, it is never to be an outdoor dining forever and leave it at that. So that is how I would express it and that's what I would suggest that the decision in this matter is.

Village Attorney Wayne Bruyn: So, it would be with the same conditions as your decision in June other than the extension to October 12?

Brendan Ryan: Yes, exactly.

Bruce Peiffer: Yes

Ed Tolley: Agreed

Bruce Peiffer: Ok, a motion...

Brendan Ryan: Is there a motion needed for us to pass a motion, I suspect that we do.

Wayne Bruyn: You need a motion, a second, and a vote.

Brendan Ryan: Put forward the motion, Bruce maybe?

Bruce Peiffer: So moved.

Ed Tolley: You have a second from Mr. Tolley.

Brendan Ryan: And then all in favor say Aye.

Bruce Peiffer: Aye

Geoff Judge: Aye

Ed Tolley: Aye

Brendan Ryan: Aye. Any opposed? No. The motion is carried and that's what we shall do.

MR. TREUHOLD ASKED FOR A MOTION TO ADJOURN THE MEETING. MR. PEIFFER MADE THE MOTION, SECONDED BY MRS. CHEPIGA AND UNANIMOUSLY CARRIED.