

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY NOVEMBER 10, 2021
3:00 P.M.**

This meeting was held remotely by videoconference, pursuant to Part E of Chapter 417 of the Laws of 2021 adopted by the New York State Legislature, which modified portions of the Open Meetings Law, allowing the meeting of the Board of Appeals and aforementioned public hearings to be held by teleconference or videoconference (i.e. ZOOM).

Present: Chairperson Pamela Chepiga, Brendan Ryan, Bruce Peiffer, Geoff Judge, Ed Tolley, Alternate George Sard, Village Building Inspector William Nowak, and Village Attorney Wayne Bruyn

1) Ms. Chepiga opened the meeting with a roll call, and noted that the date of the next meeting will be December 15, 2021. This meeting will be held by videoconference. Ms. Chepiga then asked for a motion to approve the minutes of the October 13, 2021 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE OCTOBER 13, 2021 MEETING. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter to be heard was the holdover application of **96 DAY LILY LANE LLC of 11 BAY VIEW DRIVE [SCTM# 902-11-3-8.1] for:** variances from the provisions of (1) §196-13B(18) in order to permit the construction of a boat slip as a permitted customary accessory structure on a lot where no principal dwelling exists; (2) §196-20 in order to permit the construction of a boat slip as a permitted customary accessory structure prior to the construction of a principal dwelling; (3) §196-12 (Table of Dimensional Regulations) in order to permit the installation of a boat slip with an approximately 4' wide perimeter walkway 6' from the northerly property line where 25' is required; and all other necessary relief on a 47,505 sq.ft. parcel of land (exclusive of underwater lands) located on the southwesterly side of Bayview Drive, northerly side of the Quogue Canal and easterly side of a Dredged Canal, in the A-3 Residence District.

Ms. Chepiga noted that Attorney Kittric Motz has requested that the Board hear this matter first as a neighbor would like to comment, but can only stay on the teleconference for a limited time due to a prior commitment. Ms. Chepiga asked if anyone had any objections to this, and no one did.

Ms. Motz reviewed the application. She said that the board had asked at the last meeting if the boat slip at 15 Bay View Drive could be expanded. She believes that it could likely be expanded, but she felt this was irrelevant to the application. Ms. Motz said that this property is a unique circumstance because of the common ownership of the properties, and she believes it would be unlikely that there would be other similar situations like this in the Village to set a precedent. Ms. Motz said that there are other vacant parcels in the Village with boat slips, and the matter of

common ownership of an ocean front property should not make a difference, and her client should be allowed to have the same benefit. Ms. Motz also noted that the dredging that would need to be done to create this boat slip would benefit many other neighboring property owners. Ms. Motz wanted to note that she believes that this is relevant in this matter, as one of the determining factors of an application is the effect it will have on the surrounding neighborhood. The dredging would benefit every property owner along the canal. Gerry Byrne of 22 Quogo Neck Lane spoke next. Mr. Byrne wanted the Board to know that he is in favor of this application, and all of the neighbors will benefit from the dredging of the area. As no one else wanted to be heard, Ms. Chepiga closed the record on this matter, and said there will be a written decision at the December meeting.

3) The next item on the agenda is the amended application of 37 BAY ROAD INC. (owner now Jonathan Silverstein) – 37 BAY ROAD [SCTM# 902-6-1-18.11] for: an interpretation of the Building Inspector's determination and/or variances from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit an elevated catwalk/wetland access walkway extending over a portion of designated wetlands in the center of the property to access the property's frontage on Shinnecock Bay with a 45' setback from an unopened portion of a private road where 100' is required; (2) §196-13B(10) in order to permit an elevated catwalk/wetland access walkway extending over a portion of designated wetlands in the center of the property where said elevated catwalk/walkway does not directly connect to the bay; and (3) all other necessary relief on premises located on the southerly side of Bay Road, approximately 2,623' easterly of Montauk Highway (SR 27) in the A-8 Residence District.

Attorney Heather Wright was present on the teleconference for the applicant. Ms. Wright reviewed the amended application. The amended application removed the variance request from the northerly lot line, such that the only variance requested is setback relief of 45 ft from Bay Road. Ms. Wright reviewed the five part test. She noted that the proposed cat walk is in keeping with the character of the neighborhood, and would not cause any detriment to nearby properties, and that it is a common structure for waterfront properties in the Village of Quogue. Ms. Wright explained that the proposed catwalk would not have an adverse effect on the environmental conditions of the neighborhood, and the DEC granted the original permit and has granted the amendment. At the request of the Board, the applicant went back to the DEC to inquire about moving the catwalk to the amended area. The DEC reviewed the project, and the minutes of the meetings to understand the concerns of the neighbors and the Board. The DEC asked for the area to be staked, which was done. The DEC suggested that the catwalk be kept to an area dominated by phragmites. A condition of the amended permit is the restoration of the path that is along the northerly line with native vegetation. The DEC also requested that the catwalk be an open grate, 4 feet above grade, so the plants would get light and could continue to grow underneath. Ms. Wright noted that there is no location on this property were the catwalk would meet setbacks, as the property in that area is very narrow. Ms. Wright also explained that since this portion of Bay Road is unopened it would not have a negative impact in this area. Ms. Wright feels the requirements of the five part test have been satisfied in this amended application. Mr. Bruyn asked about the shed that is listed on the survey. Mr. Messina said the shed is not part of the application

and they will amend the survey to remove the shed. Mr. Messina said there are no future plans to build the shed. Mr. Peiffer asked what the original purpose of the shed was. Mr. Messina said they originally thought they would keep kayaks and beach chairs in the shed, and that it was approved by the DEC, but that they will not be building the shed. Attorney Jeffrey Bragman spoke next. Mr. Bragman noted that he would consider this a new application. Mr. Bragman feels that this catwalk would be intrusive on the property, and that none of the other subdivision lots have catwalks. Mr. Bragman has submitted a memo from Chuck Hamilton showing undisturbed tidal wetlands. Mr. Bragman also noted that even though this has been approved by the DEC, the Village is not bound by this decision as the Village has to consider other standards that the DEC does not. Mr. Bragman feels this 55% variance request is substantial, and will be obstructing the views in the area. Mr. Bragman also spoke of this application violating the Covenants and Restrictions that were set by the Village Planning Board, and should be considered a detriment to the neighborhood. Mr. Bragman again referenced Mr. Hamilton's memo saying the area only is affected by the moon tides, and the beach area is only inundated during those times. Mr. Hamilton also observed that where they want to build the walkway is in a dry area, and experiences little tidal flooding, so an elevated walkway is not needed. Mr. Bragman thought that a lower walkway could be a possible alternative. Mr. Bragman felt the application as is stands would create an adverse impact on the physical and environmental conditions of the neighborhood, and spoke again about the violations of the Covenants on the property, and the impact of excavating the property to construct the walkway. Mr. Bragman noted that this property has been designated a critical environmental area, and should remain in its natural state. Mr. Bragman said this difficulty is self-created and felt there were other ways to resolve the issue, and that a denial would be appropriate. As a compromise, Mr. Bragman said his clients would accept and not oppose a mowed path or a ground level walkway. If the walkway is lowered to about a foot off the ground, the vegetation can still grow, and the visual impact to the area would be dramatically reduced. Mr. Beinhorn of 32 Bay Road spoke next. He said that he had applied for a catwalk, and was approved by the DEC, but was appropriately denied by the ZBA. He instead uses a footpath for access, and has found this to be an appropriate solution. Mr. Beinhorn has reached out to the Silversteins to suggest that the footpath could work for them as well. Ms. Wright spoke next. She said that Mr. Bragman's argument of the Covenant violation assumes that his interpretation is correct, and that she disagrees with his interpretation. Ms. Wright also noted that she has not received anything from Mr. Bragman about a potential compromise. Ms. Wright requests that the record be closed and a decision made on this application. Mr. Beinhorn spoke of the significance of Bay Road being a closed area presently, but that it may be opened in the future. Ms. Chepiga asked if anyone else would like to be heard on this matter. No one did, and Ms. Chepiga closed the record for written decision at the next meeting.

4) The next matter to be heard was the holdover application of **PENNIMAN'S POINT LIMITED PARTNERSHIP [SCTM# 902-6-2-2.80]** for: variances from the provisions of §196-12A in order to permit a rear yard setback of 80' for a future dwelling where 100' is required, said variance having been previously granted by the Board of Appeals by decision dated January 4, 2003, which decision was extended through 2019 but is now expired; and all other necessary relief

on a 99,929 sq.ft. parcel of land designated as Lot 3 (formerly shown as proposed Lot 4) on the filed Subdivision Map for Penniman's Point Limited Partnership Section II, filed in the office of the Suffolk County Clerk on August 9, 2012 as Map No. 11872, and located on the southerly side of Second Neck Lane, opposite Second Neck Court, in the A-8 Residence.

Attorney Jane Kratz was present on the teleconference for the applicant. Ms. Kratz said she has been in communication with the prospective purchasers of this parcel, and has confirmed they do not intend to seek any further relief. Ms. Kratz noted that she has submitted a letter to the Board, and the Attorney for the purchaser has confirmed in an email. Ms. Kratz said that November 15, 2021 is the scheduled date of the closing. Ms. Chepiga asked if anyone present had any questions. Mr. Bruyn noted that the prior decision references a lot number that has since changed, and he is recommending a new variance. Ms. Chepiga asked for a motion to grant the new variance.

MR. PEIFFER MADE A MOTION TO GRANT THE REQUESTED NEW VARIANCE. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) The next matter on the agenda was the application of **NANCY OVERLANDER & CRAIG OVERLANDER of 46 SHINNECOCK ROAD [SCTM# 902-10-3-9.2]** for: variances from the provisions of §196-12A in order to legalize existing improvements and expand an existing first floor bedroom by 151 sq.ft. at the southeasterly corner of an existing dwelling, add a pergola to an existing deck and add a hot tub to an existing swimming pool which will increase the nonconforming lot coverage from 15.9% as previously granted by the Board of Appeals by decision dated December 7, 2017, to 17.9% where 15% is required; and all other necessary relief on a 87,287 sq.ft. parcel of land located on the easterly side of Shinnecock Road, approximately 585' southeasterly of Niamogue Lane in the A-8 Residence District.

Ms. Chepiga noted that the applicant has requested this matter be adjourned until the December 15, 2021 meeting.

6) Mr. Strecker of 9 Bay View Drive asked to be heard regarding the 11 Bay View Drive application. He wanted to express that he supports this application. Mr. Strecker spoke of the problem in the canal and how it needs to be dredged. Ms. Peiffer noted that the record for this application had been closed earlier in the meeting.

As there was no more business, Ms. Chepiga adjourned the meeting.