

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY FEBRUARY 23, 2022
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, Ed Tolley, Alternate George Sard, Village Building Inspector William Nowak, and Village Attorney Wayne Bruyn

Absent: Geoff Judge

1) Ms. Chepiga opened the meeting with a roll call, and noted that the date of the next meeting will be March 16, 2022, and it will be conducted by ZOOM. Ms. Chepiga asked for a motion to approve the minutes of the January 12, 2022 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE JANUARY 12, 2022 MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter that was addressed today was the application of **DUNE DJCJ LLC at 158 DUNE ROAD SCTM# 902-16-2-2.4 for:** variances from the provisions of (1) §196-12B as it references §196-13(A)(1) in order to temporarily maintain the existing dwelling on the lot while a new second dwelling is constructed; and (2) §196-12A (Table of Dimensional Regulations) for the construction of a new dwelling with attached deck, swimming pool and spa, and associated improvements within 0' of the toe of the dune where 25' is required; and (3) all other necessary relief on premises located on the southerly side of Dune Road, approximately 2,460 east of Post Lane in the A-1 Residence District.

Attorney Kittric Motz was present on behalf of the applicant. Ms. Motz reviewed the application. She explained that her client is requesting to be permitted to maintain the existing non-conforming residence during construction of the new residence. Once the new residence is complete, the existing structures will be demolished. The three story residence, pool and deck are currently south of the Coastal Erosion Line, and the new structures will all be north of the line. When the application was being prepared, it was determined that they will also need toe of the dune relief as the toe of the dune snakes up behind the house. Ms. Motz noted that after Superstorm Sandy, a number of variances were requested along this strip of Dune Road, including by the neighbor next door. In the Board's decision it was noted that there is no toe of the dune in this area because the dune was completely wiped out. The dunes that are there now for 156, 158 & 160 Dune Road are

somewhat artificial. Ms. Motz said that Mr. Nowak's memo requested further information regarding the height of the structure, and the demolition plan. She reviewed Exhibit 4 in the submission which presents the demolition plan in two phases. The first phase is the demolition of the pool and deck, and at that time clean fill and American Grass will be brought in while a formal landscape plan is being developed. Floor plans and elevations were also submitted. Ms. Motz reviewed Exhibit 6, which shows that the footings are in a flood zone, which allows for 2 feet of freeboard, and therefore will not need variance relief. Mr. Nowak agreed that this cleared up the height question from his review. Ms. Motz reviewed Exhibit 7, which shows the Coastal Erosion Line across 156, 158 & 160 Dune Road. It shows how the line is pushed further north at 158 Dune Road because sand has been going around the house for the past 10 years since Superstorm Sandy. Ms. Motz believes that once the demolition takes place, the environmental people will be working to establish a regulatory toe of the dune, which would be 25 feet south of the Coastal Erosion Line. She explained that this toe of the dune situation is not a common occurrence and will not be setting a precedent. Mr. Tolley spoke first. He said he did not have a problem with the toe of the dune request, but he felt that keeping the house in place during construction would not be ideal. He felt it would be disruptive to the neighbors, and said he didn't understand why they would want to live in the house during the construction process. Mr. Peiffer agreed. Ms. Motz next reviewed the dune restoration part of the project. Melissa Dedovich, of Peconic Environmental Associates spoke next. She explained that the actual demolition of the house will only take about two days. Ms. Dedovich reviewed the dune restoration project which includes installing geocubes, which will join up to the other existing ones on Dune Road to the north. Since they will be bringing equipment in anyway at that time to do the dune restoration, doing the house demolition at this point will not really be an issue. Mr. Ryan asked if this situation will be setting a precedent for future projects. Ms. Motz felt that a problem could occur if the project for some reason had to stop construction, leaving both houses on the property. She thought maybe they could put a condition in the variance regarding this issue. Mr. Peiffer expressed his concern about leaving the house in place open ended, and would like to see a reasonable end date for the house to be demolished. The owner of the property, Dan Mortiz, spoke next. He explained that his family would really like to be able to use the house for the next two summers while the property is under construction. He understood the Board's concerns, and would be willing to put a condition in regarding the timing of the demolition. Ms. Motz said they will start on the project hopefully in April 2022, and the proposed house should be completed in the spring of 2024, so the request for the existing house would be for the next two summers. Mr. Goodman of 156 Dune spoke next. He said that he would like some time to review and get additional information about the project. He expressed his concerns about leaving the house in place during construction. Mr. Goodman said he would like to see on the property itself where the house would be going. Ms. Motz said the property is not staked, so it might be hard to see where the line is. Ms. Motz said that Mr. Goodman received a variance for his deck and part of his pool because they are south of the Coastal Erosion line. Mr. Goodman said he did not necessarily have a problem with this application, but he would just like some more information. Mr. Moritz said he would be happy to allow Mr. Goodman on his property to take a look. Ms. Chepiga asked if anyone had any questions. Mr. Bruyn asked if Ms. Motz could provide the Board with any similar situations that may have occurred in the Village in the past where the house was allowed to remain during construction. Mr. Treuhold said there were

two circumstances that he remembered, and that they were clearly temporary in duration, and were the exception rather than the rule. Mr. Tolley said he would be interested in seeing this information as well. Mr. Bruyn asked Ms. Motz to consider what kind of guarantees could be offered, such as a performance bond. Mr. Bruyn suggested that Mr. Mortiz meet with Mr. Goodman to provide him additional information. Ms. Motz asked for permission to file a building permit application for the house so Mr. Nowak could begin his review. Mr. Nowak agreed that the permits could be filed at this time. Ms. Motz requested that this matter be adjourned until the next meeting. Ms. Chepiga asked for a motion to adjourn.

MR. PEIFFER MADE A MOTION TO ADJOURN THIS APPLICATION UNTIL THE MARCH MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

3) The next matter on the agenda today was the application of **DANIEL & ALISA DOCTOROFF at 150 DUNE ROAD SCTM# 902-16-2-1.4 for:** applicable area and use variances from the provisions of (1) §196-3 in order to permit a second story expansion of the existing nonconforming, one story detached garage with a side yard setback of 24.5' where 25' is required; (2) §196-13(A)(6)(b) in order to construct a second story addition to the existing nonconforming, detached garage with a height of 20.5' where 10' is required for a flat or shed roof; (3) §196-13(A)(6)(b) in order to permit the second floor of the garage to have a bathroom where a bathroom limited to a sink and toilet is permitted only on the first floor; (4) §196-13(A)(6)(b) in order to permit the second floor of the garage to be used as living quarters with a bedroom and bathroom where the use of a second story of a detached garage for uses other than storage, single-room office or exercise room, are prohibited; (5) §196-13(A)(6)(b) in order to permit first and second floor decks on the detached garage where such decks are not permitted; and (6) all other necessary relief on premises located on the southerly side of Dune Road, approximately 2,300 feet east of Post Lane in the A-1 Residence District.

Attorney Nica Strunk was present on the teleconference for the applicants. Ms. Strunk reviewed the application. She explained that her clients are requesting a variance to allow a small second story to be built on an existing detached garage to provide a bedroom and a bathroom for the Doctoroff's longstanding housekeeper. Ms. Strunk said that the family is growing and they need more room to accommodate the family's needs. She also noted that Mr. Doctoroff has been recently diagnosed with ALS, and will need additional space in the house for his in-home care needs. Architect Olivia Rowan showed the site plan. Ms. Strunk said that the proposed second story will add about 480 additional square feet, and will only cover a portion of the garage. The first floor addition will add about 80 additional square feet for the stairwell area. The proposed bedroom addition will not be visible from the road, and will be virtually invisible to the neighbor, Mr. Strong. Ms. Strunk explained that they have reached out to Mr. Strong, but have not heard back. Ms. Rowan showed photos of the garage, with the existing berm and vegetation. Ms. Strunk said this addition will have no impact on the neighborhood. She added that her clients are willing to add a covenant that this addition will never be occupied by anyone but family or an employee, and will never be allowed to be rented. Ms. Strunk said that all options were explored by the

Architects and it was determined that this proposed design was the least impactful option. She explained that there is no space to expand the house to the south or west sides, and the sanitary system is on the north. In addition, adding another bedroom to the existing house would trigger the need for the entire sanitary system to be replaced with an upgraded IA system. Ms. Strunk said that to add a small addition to the garage would be far less impact to the area. They would add a small IA sanitary system just for this bedroom. Ms. Chepiga asked how many bedrooms are currently in the existing house. Architect Oliver Cope said there are 7 bedrooms and a gym. Ms. Chepiga asked if the gym could be converted to a bedroom. Ms. Strunk said that would trigger the need for the upgraded sanitary system for the house. Mr. Cope added that the gym is going to be needed for Mr. Doctoroff's physical therapy. He said they also thought of moving the gym to the garage, but that would not be practical because of accessibility issues. Mr. Cope said the clients use the property year round but it is not their primary residence, their primary residence is in NYC. Ms. Chepiga asked if anyone besides the family lives in the house full time. Mr. Cope he said he did not believe so. Ms. Strunk explained that the housekeeper lives with the family when they use the house. Ms. Strunk reviewed the height variance next. The maximum allowable height for a flat or shed roof for a garage is 10 feet, and the proposed addition will have a shed roof with a maximum height of 24.9 feet above average grade. She explained that the Village Code does allow for a second story on a detached garage with a pitched roof. When the garage was originally built, the Village Code limited accessory structures to a height of 20 feet, so the existing structure complied at that time. The Code changed in 2019 to a maximum height of 10 feet for a flat roof. This would allow for a structure of four feet in the interior with the calculation of the average grade, since the grade of Dune Road is significantly lower than the grade at the site. Ms. Strunk said the average grade is calculated at 4.5 feet lower than the grade at the site, which makes a huge difference. A garage with a pitched roof would only allow for a 5.4 foot height at the peak only, and is not practical option. Another factor is the existence of the berm with the mature trees, which makes the garage invisible to any neighbors. Ms. Strunk addressed the bathroom above the garage next. She explained that the use of the property is not changing, it will remain residential. She noted that the benefit to the applicant would far outweigh any detriment to the community, which she felt would be nil. Ms. Strunk noted that the bedroom will be smaller than the garage and there will be a flat roof area of the existing garage that is going to adjoin this bedroom no matter what, so to use it as a deck will have no impact and should be allowed. It will not be seen from the street or by any neighbor. Ms. Strunk addressed the side yard setback next. The existing survey shows the garage at 24.5 feet from the property line. She explained that they are going to clarify those measurements with the surveyor. Ms. Strunk believes that the measurements were taken from the battens of the sheathing of the existing garage, but that the foundation is 6 inches further away and should meet the setback required. She explained that just the corner of the structure, less than one square feet, would not meet the setback. She also wanted to note that the proposed addition will not have battens, it will have siding, and will meet the required setback. Ms. Strunk said if a variance is needed for the existing garage it would be very minimal. Ms. Strunk said that granting these variances would produce no undesirable change to the character of the neighborhood, and there would be no detriment to any nearby properties. She also said that this design will be the least impactful alternative, given they have explored many other options. Ms. Strunk explained the that request for the garage height is minimal given the circumstances of the grade calculation.

She added that doing this addition will have the least impact on the environment. Ms. Strunk explained that this difficulty was in no way self-created. She noted that there is currently an affordable housing crisis in our area, and that the housekeeper cannot find housing locally for the season. She also noted that Mr. Doctoroff's diagnosis is not something they could have anticipated. Ms. Strunk said that the legal issues of the Americans with Disabilities Act and the Fair Housing Act are relevant as Mr. Doctoroff will be disabled. She noted that she has referenced relevant cases in her submission. She feels that the accommodation of the requested variances will allow Mr. Doctoroff an equal opportunity to use and enjoy the dwelling. Ms. Strunk said that this is a reasonable accommodation as it will not change the use of the property, or have any impact on the neighborhood. She feels that this is a necessary accommodation since it will allow for Mr. Doctoroff to have at-home medical care. Ms. Strunk also does not feel that granting these variances will set a precedent as this is a very unique situation. Mr. Peiffer spoke next. He asked why adding a bedroom over the garage would not require upgrading the sanitary system. Mr. Cope explained that they would be adding a modest sanitary system just for that one bedroom area. Mr. Peiffer asked if the 114, 000 square feet calculation of the property as noted on the survey was correct. Mr. Cope agreed that it was. Mr. Peiffer asked why the garage could not be moved to a compliant area, as the property is so large. Mr. Cope said only six inches of the corner of the garage is not compliant. Mr. Peiffer said that he disagreed with the statement that this variance would not set a precedent. He expressed his concerns regarding the relevance of this variance as it pertains to the Disability Act. He also questioned the hardship factor, and feels there are other alternatives that could be explored. Mr. Sard expressed concern about there already being seven bedrooms in the house. Mr. Cope explained that they could add another bedroom to the house, but it would be a much larger project to rip out the old sanitary system and replace it with a new system. Mr. Ryan spoke next about how the Village Code does not allow for residences on the second floor over a garage, and that this is considered a significant issue in the Village. Mr. Bruyn asked if evidence could be provided to the Board as to the character of the neighborhood. He said he would review further the cases that were cited in Ms. Strunk's submission. Mr. Bruyn noted that this application was advertised as a use variance, and that also should be addressed. He also noted that living quarters in an accessory building are not permitted anywhere in the Village (aside from those that are pre-existing) and this would be considered a fundamental change. Mr. Bruyn said accommodations for affordable housing would be a legislative decision, not for the Zoning Board to decide on. Ms. Strunk reviewed some of the cases that were cited in the submission. She reiterated that she does not feel that putting a bedroom above the garage should be considered a fundamental change. Mr. Tolley suggested that this application be adjourned until the next meeting. Ms. Chepiga asked if anyone from the public had any questions. No one did. Ms. Chepiga suggested keeping this matter open until the next meeting, so the Board members could have time to review, and Ms. Strunk could add any additional information. Ms. Strunk agreed.

MR. TOLLEY MADE A MOTION TO ADJOURN THIS APPLICATION UNTIL THE MARCH MEETING. MR. SARD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4) The next matter on the agenda for today was the holdover application of **NANCY & 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 a request had been received to adjourn this application until the March meeting.

5) The last matter on the agenda for today was the holdover application of **STEVEN & RENEE LASALA – 29 OGDEN LANE EAST SCTM# 902-14-1-30 for:** variances from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to construct a detached 2 story garage with a street setback from Ogden Lane East of 40' where 60' is required; (2) §196-12A (Table of Dimensional Regulations) in order to permit additions to the existing single-family dwelling with a total side yard setback of 54.1' where 56.1' exists and 60 feet is required; (3) §196-13E in order to construct a patio extension 31.8' from the existing boat slip where 50' is required; (4) §196-13E in order to construct an outdoor fireplace 34.6' from the existing boat slip where 50' is required; (5) §196-12A (Table of Dimensional Regulations) in order to construct a patio extension 17.3' from the easterly side lot line where 25' is required; (6) 196-12A (Table of Dimensional Regulations) in order to construct an outdoor fireplace 17.5' from the easterly side lot line where 25' is required; and (7) all other necessary relief on premises located on the southerly side of Ogden Lane East (a/ka/ Schafer Lane), approximately 429' east of Ogden Lane in the A-3 Residence District.

Attorney Kittric Motz was present on the teleconference for the applicants. Ms. Motz reviewed the submission that was sent to the Board. She referenced Exhibit 7 of the submission, which is an amended survey showing the garage in the new location. The garage is now proposed to be 50.4 feet from the street, 9.6 feet further from the street than the original request. The garage doors have been relocated, but the footprint remains the same. Ms. Motz referenced Exhibit 8, which shows the FEMA calculations from the Architect, which had been requested at the last meeting. The budget from these calculations is \$714,000 for all the interior renovations that they would like to do. This would prohibit the addition of a second floor, as the cost of the second floor with the other additions would put them over the FEMA limit. This would mean the house would have to be raised, and they are trying to avoid having to do this. Ms. Motz noted she has submitted both the Non-Jurisdiction Letter from the DEC, and the amended permit from the SCDH as requested. Ms. Motz feels that this amended location of the garage would not have any impact on the character of the neighborhood. Ms. Motz said they have pulled in the patio area and reduced the request by 2 feet. The proposed patio will now be 19.7 feet from the easterly side yard, and the fireplace will be 19.8 feet away. Mr. Tolley asked if there was any way to push the garage a bit closer to reduce the variance request. Mr. Bruyn asked for more

information regarding the relocation of the garage doors. Architect William Barba explained that they just moved the doors from the south side to the east side. The functional area of the garage remains the same, but this move allowed for the garage to be located closer to the house, and still have an adequate turn around radius for the vehicles. Mr. Tolley asked if the porch area was reduced would that get the garage any closer. Mr. Barba said that the sanitary system design is a low profile system, and cars cannot be parked over it. He explained that if the U shaped driveway were to be eliminated, there would only be room for two cars, where it currently allows for six cars. Ms. Chepiga asked if anyone else on the call had any questions. As no one did, Ms. Chepiga asked for a motion to approve the amended request.

MR. SARD MADE A MOTION TO APPROVE THE AMENDED REQUEST AS REFERENCED IN THE FEBRUARY 18, 2022 SUBMISSION. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

As there was no more business, Ms. Chepiga asked for a motion to adjourn the meeting.

MR. SARD MADE A MOTION TO ADJOURN THE MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.