

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY MARCH 16, 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, Geoff Judge, 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 Wednesday, April 20, 2022. It has not yet been determined if it will be held live or by ZOOM. Ms. Chepiga asked for a motion to approve the minutes of the February 23, 2022 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE FEBRUARY 23, 2022 MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter on the agenda for today was **KRISTA ARCHER – 40 QUAQUANANTUCK LANE [SCTM# 902-14-1-12.1] for:** variances from the provisions of (1) §196-13(A)(6)(b) in order to legalize a pool house with a height of 29.8’ above mean sea level where a height of 23.9’ above mean sea level is permitted; and (2) all other necessary relief on premises located on the southerly side of Quaquanantuck Lane, approximately 250 feet east of Beach Lane, in the A-3 Residence District.

Architect Oscar Giraldo was present on the teleconference. Mr. Giraldo reviewed the application. He showed the Building Permit for the pool house, barbeque and outdoor shower which was issued on December 17, 2020. The construction for this project began in 2021. He explained that they began the project by elevating the house to FEMA requirements and moving the house to a new location to comply with zoning and historical preservation regulations. Mr. Giraldo said they then built the retaining walls, pool and, in his opinion, pool house as permitted. Mr. Giraldo said the pool house is 29.8 feet above sea level height, and that they were permitted to build it to 29.5 feet high, a difference of only 3.5 inches. Mr. Giraldo showed plans that had been submitted to the Building Department in 2016, showing the top of the roof ridge at 29.7 feet high. Mr. Giraldo said they did not proceed with these plans because they needed to cut the budget. He next showed the plans that were submitted to the Building Department in 2019, with the top of the roof ridge at 29.5 feet above sea level. Mr. Giraldo said they could not proceed with these plans because of his understanding of historical preservation rules. At this point the entire project was redesigned, with the top of the roof ridge still at 29.5 feet. He showed the plans that were submitted with the Building Permit application. Mr. Giraldo thought that since the plans were approved, the grade should be moved to the new FEMA elevation grade of 11 feet. Mr. Giraldo noted that he thought

the code was punishing to projects that need to be elevated, since they designed the pool house to resemble the main house. Mr. Giraldo felt this situation was an innocent error on both sides, and would not have any negative consequences to the neighbors or the Village. He next showed photos of what the pool house would look like when completed, and how it would complement the design of the main house. Mr. Giraldo also showed photos of what the main house would look like when refurbished and completed. He noted that the dormer feature of the pool house was important to the design. He next showed a drawing of the pool house at street grade, compared to the elevation at the FEMA elevation grade. Mr. Giraldo said that this proposed pool house would not have any adverse effect or negative environmental to the neighborhood, and is asking the Board to allow the pool house to remain at this height to keep the harmony and balance of the overall property design. Property owner Dr. Krista Archer spoke next. She said that this project has been in the works since 2015, and that to take down the roof and make the changes now would cause an economic hardship. Mr. Bruyn asked if all of the documents that were presented today have been submitted to the Board. Mr. Giraldo said he would submit the additional documents for the record. Mr. Peiffer spoke next. He said that he could not understand how a 7 or 8 feet error could be considered an innocent mistake, and that the Village Code has not been followed. Mr. Bruyn said according to the submitted plans the base of the building is at elevation 10, and the top is over 29.5 feet, so the building is over 19 feet in height. He noted that the definition of height in the Village Code is measured from the height of the adjoining street. Mr. Bruyn asked why the building was designed to be 19 feet high when the Code only allows for 16 feet. Mr. Giraldo said that he believed freeboard accounts for 2 feet in height due to elevating the building. Mr. Giraldo said he interpreted the 11 feet, less the 29.5 feet is how he came to the 18.5 feet in height. He said that he believed 23.9 feet in height is allowed, which is less the 23.8 feet is how he calculated the 5.9 feet of requested relief.

Mr. Tolley spoke next. He said there is substantial nonconformance with an obvious visual impact on the neighboring properties. He noted that the Village has received complaints regarding the height. Mr. Tolley asked that since construction is not complete, could the height be brought into compliance or at least closer to compliance. He said that he understood the design concept, but that he felt that since there is no useable space under the roof, they could adapt the height. Dr. Archer spoke next. She explained that the look of the project is so imposing from the street because the fill has not been brought in as of yet. Dr. Archer also noted that she is well over budget due to Covid and supply chain delays. She noted that she has already spent close to \$75,000 on the pool house, and that there is currently a Stop Work Order on the pool house. Dr. Archer said that to take down all the lumber and the windows will be a financial hardship. She said they would have to order all new windows and lumber if the pool house had to be redesigned. She estimated that at that point the pool house cost will be over \$200,000. Mr. Peiffer said that he found it hard to believe that it would cost that much more to modify the pool house roof. Dr. Archer said that would be the all in cost and she could get these figures from the builder. Mr. Peiffer asked the cost of the entire project. Dr. Archer said that this project is in three phases, with phase one estimated at 1.1 million, and they are well past that. She said she was hoping to have phase one done by the summer, but there have been many delays, including hooking the pool house up to the septic system. Ms. Chepiga reiterated Mr. Tolley's question pertaining to a possible alternate roof plan. Mr. Giraldo showed a sketch of an alternative roof plan which would require 3.1 feet in height relief, along with a sketch of the pool house in compliance. Ms. Chepiga asked if the Board could have copies of these sketches. Mr. Bruyn asked the slope of the three roofs shown on the

diagram. Mr. Giaraldo said the compliant pool house roof has a slope of 12 by 12, and the house roof slope is 10 by 12. Mr. Bruyn asked about the ground elevation of the pool house. Mr. Giraldo said it is FEMA elevation of 11 feet. Mr. Bruyn asked about the original grade at the pool house before renovation. Mr. Giraldo said it was probably originally at an average of 5 feet. Mr. Nowak said that he thought if the roof pitch could be changed, the height could be brought more into compliance. Ms. Motz asked if the street elevation is 3.9 feet, can they go up 16 feet to elevation to 19.9 feet, not allowing for the 2 feet in freeboard since this is not a one family dwelling. Mr. Nowak agreed. Ms. Chepiga asked if anyone had any further questions. Ms. Michalowski said that Mr. Tedaldi and Ms. Pilski had been on the teleconference, but are not on now. Ms. Chepiga said that the Board will continue with the next matter and come back to this at the end of the meeting.

3) The next matter on the agenda for today was the holdover application of DUNE DJCJ LLC 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 the teleconference. Ms. Motz said that she has researched over 20 years of ZBA minutes and found four instances where an existing house was allowed to remain on the property during construction. Ms. Motz has submitted to the Board copies of these decisions. She noted that there were no recorded covenants attached to these temporary decisions, but the common theme was that no Certificate of Occupancy would be granted until the original structure was demolished. Ms. Motz said her clients would like to be able to keep the house in place for two years during the construction process. Ms. Motz said that Mr. Goodman has spoken with Mr. Moritz and seems satisfied with the questions that he originally had. She also noted that a demolition permit has been applied for along with a CEHA permit and a SWPP Plan has been filed. Ms. Chepiga asked if anyone had any questions. Mr. Bruyn noted that one of the properties in the submission did have a covenant restriction. Ms. Motz said that the 18 Ocean Ave application originally proposed restrictions, but they were not adopted. Mr. Bruyn asked if the DEC permit reflected the existing house remaining during construction. Melissa Dedovich of Peconic Environmental Associates said that they have a letter of non-jurisdiction from the DEC. Mr. Tolley proposed allowing the house to remain in place through October 2022 or issuance of a CO, whichever came first. He said he had concerns with the existing house being so far south of the Coastal Erosion Hazard Line. Ms. Motz said they would not be anywhere close to finishing by October 2022. She further noted that 3 of the 4 variances referenced in her submission were granted for a two year period. Mr. Tolley said that none of these variances that were granted were on the ocean and none involved existing houses south of the Coastal Erosion Hazard Line. Ms. Chepiga asked when the construction is anticipated to start. Ms. Motz said they will start construction as soon as the permits are issued. Ms. Chepiga asked if the Board was prepared to vote on the variance as requested with the existing house being allowed to remain in place through September 30, 2023. She asked for a motion.

A MOTION WAS MADE BY MR. PEIFFER TO GRANT:

- (1) §196-12B as it references §196-13(A)(1) in order to temporarily maintain the existing dwelling on the lot subject to the following conditions:**
 - a) the existing swimming pool and deck are to be removed, and the dune restored prior to commencement of construction of the new dwelling**
 - b) the existing dwelling to be removed, and the dune restored prior to September 30, 2023, or the issuance of a Certificate of Occupancy, whichever comes first.**
 - c) Building Department shall be provided with the necessary Hold Harmless Agreement from any claims resulting from the construction and use of the dwelling during the time of this variance.**
- (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;**
- (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 known as 158 Dune Road and designated as SCTM# 0902-016.00-02.00-002.004.**

THIS MOTION WAS SECONDED BY MR. RYAN AND VOTED ON AS FOLLOWS:

Yes: Mr. Peiffer, Mr. Ryan, Mr. Judge

No: Ms. Chepiga, Mr. Tolley

Absent/Abstain: None

THE MOTION WAS CARRIED WITH A 3 TO 2 VOTE.

4) Ms. Chepiga asked if anyone on the call wanted to speak regarding 40 Quaquanantuck Lane. No one did, and she asked for the record to be closed for decision. Dr. Archer asked if she could submit financial information regarding the pool house. Ms. Chepiga agreed and said they will close the record except for written submissions through March 28, 2022.

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

MR. PEIFFER MADE A MOTION TO ADJOURN THE MEETING. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNIMOUSLY CARRIED.