

QUOGUE VILLAGE PLANNING BOARD  
MINUTES OF PUBLIC HEARING  
TUESDAY MAY 17, 2022

The Planning Board of the Village of Quogue held a public hearing via Zoom and conference call pursuant to Part E of Chapter 417 of the Laws of 2021, Chapter 1 of the Laws of 2022 and Chapter 56 of the Laws of 2022 as adopted by the New York State Legislature, and Governor Hochul's Executive Orders, number 11 et. seq., which modify and suspend portions of the Open Meetings Law,

**Members present:** Chairman Stephen Farrell, Bob Levy, Clarke Lewis, Lynn Lomas, Paul Mejean and Dick Gardner (alternate – non-voting) Note: Mr. Levy had to leave the meeting at 10:26 am.

**Others Present:** Village Attorney Wayne Bruyn, Village Building Inspector William Nowak, Deputy Village Clerk Denise Michalowski, Richard Neil, Aram Terchunian, Michael Byowitz, Heather Wright, Jeffrey Bragman, Frank Piccininni, Chuck Hamilton, Steven Schneider, Stan Picheny, Vivian Picheny, Alston Beinhorn

1. Mr. Farrell began the meeting with a roll call and then asked for a motion to approve the minutes of the April 21, 2022 meeting. Mr. Mejean made the motion, Mr. Levy seconded the motion, and the motion was unanimously carried.
2. **Advanced Diving & Welding Inc. – 66 Old Country Road SCTM# 902-2-1-8.5**

Mr. Neil was present for the change of tenant application. He explained that his company currently occupies Unit # 1 and they propose to occupy Unit #4 for office space. Mr. Farrell asked if there would be any hot welding being done on site. Mr. Neil said they would not be doing any welding on the property. Mr. Farrell asked if anyone had any questions regarding this application and no one did. Mr. Farrell made a motion to approve this application, Mr. Levy seconded the motion, and the motion was unanimously carried. Mr. Farrell reminded Mr. Neil that any change or additions to the signage would require Planning Board approval.

3. **Cotterell Landing (Dore/O'Leary) – 59 Old Main Rd SCTM# 902-3-1-21**

Mr. Terchunian was present for the applicant. Mr. Farrell noted that this matter will be addressed at the June 8<sup>th</sup> meeting and asked that the corrected Part I SEQRA Form be submitted.

4. **Jonathan T. & Natalie P. Silverstein – 37 Bay Road SCTM# 902-6-1-18.11**

Application for an interpretation of the Declaration of Covenants and Restrictions, dated July 24, 2018, and recorded in the Suffolk County Clerk's office in Liber 12970, page 963, which Declaration was imposed by the Planning Board as a condition of approval of the Subdivision

Map of Picheny Property, filed in the Suffolk County Clerk's Office on March 26, 2019 as Map File No. 12158. Specifically, applicants seek to confirm that the provisions of said Declaration do not preclude the construction of an elevated catwalk/wetland access walkway that extends over a portion of NYSDEC designated wetlands in the center of the property to access the property's frontage on Shinnecock Bay. The applicants' property is shown as Lot 6 on said filed subdivision map and is located on the southerly side of Bay Road, approximately 2,623' easterly of Montauk Highway (SR 27) in the A-8 Residence District known as 37 Bay Road and designated as SCTM# 0902-006.00-01.00-018.011.

**Mr. Farrell asked that presentations be kept to five to seven minutes and asked that written comments to be submitted to the Board.**

Heather Wright, Attorney for the applicant, spoke first. Ms. Wright explained that they are before the Planning Board at the direction of the Quogue Village Building Inspector. They had applied for and were denied a building permit for a catwalk on the property. Mr. Nowak's denial letter requested that the applicants go to the Planning Board to confirm that the Covenants and Restriction dated July 24, 2008 allow for this structure. Ms. Wright reviewed how this matter had been before numerous hearings with the Village Zoning Board of Appeals. A variance was originally applied for in February of 2021, and at the request of the ZBA, the application was modified so the catwalk would be located farther away from the neighbor's property. After obtaining approval from the DEC for this modification, the application was approved by the ZBA. Ms. Wright then reviewed the covenants, and noted that it does not have any language to prohibit a catwalk, where other covenants in the Village specifically contain language prohibiting structures such as a catwalk. Ms. Wright said that if the Covenants were intended to prohibit this structure, it would have been included in the wording. Language regarding disturbance of the wetlands in the Covenants and railing heights was discussed next.

Jeffrey Bragman, Attorney for the Pichenys and the Beinhorns, spoke next. He asked for additional time beyond the five to seven minute limitation. Mr. Bragman discussed the Covenants and how the wetlands would be disturbed by the construction of the catwalk. Mr. Bragman said that constructing the catwalk would be in violation of the Village Code. He spoke next about the DEC permit and how it is independent of the Zoning and Planning Boards and any other permits required by the Village. Mr. Bragman discussed how the installation of pilings and excavating of the soil would disturb the wetlands and be in violation of the Covenants. Mr. Bragman next addressed there being no language in the Covenants prohibiting a walkway. He noted that other Covenants in the Village specifically add language to allow walkways. Mr. Bragman added that they also have filed an appeal to the Village Zoning Board of Appeals, and the argument he is making to the Planning is without prejudice.

Frank Piccininni, Biologist with SMPL Consulting Ltd., appearing on behalf of the Pichenys and the Beinhorns, presented next. Mr. Piccininni showed photos of the property and reviewed the site conditions, along with the short and long term impacts of the proposed work. He showed photos of a typical catwalk construction, and explained that he thought the catwalk was unnecessary. Mr. Bruyn asked that the documents designating this area as a

Critical Environmental Area be submitted to the Board. Mr. Farrell asked that a copy of this presentation also be submitted.

Steven Schneider, Licensed Special Engineer, appearing on behalf of the Pichenys and the Beinhorns, spoke next. He discussed the construction of the catwalk. He said that pilings and excavating would be need to be installed along with possibly concrete foundations for these pilings. Mr. Schneider states that this process would be disruptive to the wetlands.

Mr. Nowak noted that according to the permit application, the posts were to be 4 inches by 4 inches with a simple cross section and were not to be set in concrete.

Mr. Lomas asked about a pathway currently on the property. Ms. Wright said that a condition of the DEC permit is that this pathway is to be revegetated.

Mr. Beinhorn spoke of how they have a foot path to the water on their property and that he thought it would be a more appropriate solution in this case. He expressed that a raised catwalk with a railing would be intrusive to his property.

Ms. Wright spoke of the DEC permit and how the Pichenys have a catwalk on their property. She noted that the existing pathway is required to be revegetated by the DEC permit. Ms. Wright said that she will put the rest of her argument in writing and submit it to the Board.

Mr. Bruyn discussed the possibility of the parties coming together to discuss some sort of easement on the adjacent property as a means of access.

Mr. Farrell said that the record will be kept open for the next meeting on June 8<sup>th</sup>. He asked for all documents to be submitted no later than June 1<sup>st</sup> for the Board to review. Mr. Farrell set a tentative date of the July meeting for Monday, July 11, 2022 at 9:30 am. He then made a motion to adjourn for all purposes to June 8, 2022, with all written submissions to be submitted by June 1, 2022. Mr. Mejean seconded the motion. The motion was unanimously carried.

There being no other business, the meeting was adjourned at 11:08 am.