

**VILLAGE OF QUOGUE  
ZONING BOARD OF APPEALS  
WEDNESDAY MAY 25, 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, Geoff Judge, Ed Tolley, Village Building Inspector William Nowak, and Village Attorney Wayne Bruyn  
**Absent:** George Sard (Alternate Member)

1) Ms. Chepiga opened the meeting with a roll call, and set the date of the next meeting to Wednesday, June 29, 2022 at 3pm., which will possibly be held via hybrid ZOOM meeting. Ms. Chepiga asked for a motion to approve the minutes of the April 20, 2022 meeting.

**MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE APRIL 20, 2022 MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

2) The first matter on the agenda for today was the application of **JONATHAN & ALEXIS DURHAM at 6 QUANTUCK LANE [SCTM# 902-7-3-3] for:** a variance from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit the construction of a two-story addition to an existing nonconforming dwelling with a total side yard of 52.2' where 60' is required; and (2) all other necessary relief on premises located on the easterly side of Quantuck Lane, approximately 347 feet south of Quogue Street in the A-3 Residence.

Architect David Neff was present on the teleconference for the applicants, and reviewed the application. Mr. Neff explained that the applicants are going to demolish a portion of the 2,600 square foot one-story home, and would like to add a two-story block. This will bring the square footage of the house to roughly 5,000 square feet, where approximately 5,100 square feet is allowed. He noted that this is an undersized lot, at 123.3 feet wide, where 150 feet wide is the typical size. The new two story area meets all zoning requirements if looked at on its own, but when looked at with the grandfathered north one story wing, the house violates the total combined side yard setback requirements. Instead of a 90 foot house, they are only able to build a 63 foot wide house. The new two-story area will be only 57 feet wide, but the non-conforming existing wing pushes the area several feet over the allowable width on the narrow property. Mr. Neff also noted that surrounding neighbors have written letters of support of this project. Mr. Bruyn asked what the setback of the current house is on the South side. Mr. Neff replied that the setback is around 11.1 feet on the North side, and 48 feet on the South side, and with the demolition they are reducing it to 40.5 feet. Mr. Peiffer expressed concern with the large increase in the square footage of the house, and thought that perhaps there would be another way to configure the renovation

without needing total side yard relief. Mr. Peiffer was also concerned that the south side renovation is going beyond the original footprint of the house. Mr. Peiffer said that the pool house is over 50 feet away from the pool, and into the front yard, and questioned if it actually would be used as a pool house. Mr. Neff said the structure is open on three sides and allows the owners to sit and enjoy the front yard, as well as the pool area. Mr. Neff said that the size of the house is compliant. He said that they configured the house this way so as to not have a lop-sided house, too heavy on the North side, and extended closer to Quogue Street. Mr. Tolley summarized the variance request. He said that there is a non-conforming setback on the north side of 11.7 feet that the applicant would like to keep. He continued that there is also a non-conforming setback on the East side of 35.6 feet in the backyard that will also remain. He was concerned that the proposed new addition will create a third non-conforming set back by extending beyond the footprint of the existing house. Mr. Tolley explained that he did not feel that adding a new third non-conforming setback would be appropriate. Mr. Neff said that to demolish the house and start new with the square footage they need would create a bulkier house that was closer to Quogue Street. Ms. Chepiga questioned the necessity of a variance in this matter if there were other alternatives available. Mr. Bruyn asked if they could expand toward Quantuck Lane. Mr. Neff said the owners are trying to keep as much space as possible open in the front yard area. Mr. Bruyn asked if the driveway was being relocated. Mr. Neff said the parking will be closer to the north end, and there will also be parking by the garage in the back. Mr. Tolley added that if the encroachment on the south side was removed, the pool house could be moved closer to the pool. Mr. Neff said that if the 7 feet were to be removed, they would lose a room on each floor, and it would not really be practical solution. Mr. Peiffer asked if a new sanitary system would be installed. Mr. Neff confirmed. Mr. Bruyn asked why it was important to keep the existing area. Mr. Neff replied that they are trying to keep two ground floor bedrooms for the two sets of grandparents. Mr. Nowak asked if the Board of Health considers there to be seven bedrooms in the house. Mr. Neff said he believes that they have been approved for seven bedrooms by the Board of Health. Mr. Ryan expressed his concern about adding more non-conforming aspects to this property. Ms. Chepiga agreed and added that she did not see a necessity for this variance. Mr. Bruyn suggested that Mr. Neff explore other alternatives that could be conforming or more conforming. Mr. Bruyn noted that he would like to see the five part standards specifically addressed. There was discussion of putting the application to a vote, or possibly withdrawing the application. Mr. Neff asked that this matter be kept open and adjourned until the next meeting. Ms. Chepiga asked for a motion.

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

3) The next matter on the agenda was the application of **ROBERT & JANET FABIAN at 12 DEER PATH [SCTM# 902-4-1-74] for:** a variance from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to legalize a slate patio surrounding an existing swimming pool with a rear yard setback of 20.0' where 25' is required; and (2) all other necessary relief on premises located on the easterly side of Deer Path, approximately 950 feet south of Scrub Oak Road in the A-3 Residence District.

Attorney Kittric Motz was present on the teleconference for the applicants. Ms. Motz reviewed the application. She explained that the pool was located in the current location when her clients purchased this property. The Fabians applied for, and received, a building permit to add a fence on the property. Ms. Motz explained that her clients were unaware that they had to obtain a building permit to expand the deck and add a pool patio. Ms. Motz said the deck and patio were constructed without a permit and the patio will need a variance to remain. Ms. Motz said that they are asking for permission to maintain a 6 foot wide patio on the east side of the pool, and they will be removing 2.1 feet of this patio. Ms. Motz said that all the abutting neighbors have submitted letters of support. She also added that this area backs up to the neighbor's pool and deck area, not any bedrooms. Ms. Chepiga asked for questions. Mr. Peiffer expressed concern about the construction being done without a permit, and thought that a 4 feet walkway would be sufficient for this area. Ms. Motz thought that 6 feet would be necessary to put a chaise lounge chair and that other similar variances have been granted in the area. Ms. Motz also noted that Mr. & Mrs. Fabian are new to the area and were unaware of the permit requirements. Mr. Peiffer thought that there were alternative locations for the patio that could be conforming. Mr. Tolley also expressed that he thought that the four foot walkway would be a good solution, and no variance would be necessary. Ms. Motz said that she would like to adjourn this application to the next meeting to consult with her clients. Ms. Chepiga asked if anyone else would like to be heard. No one answered, and she asked for a motion to adjourn to the next meeting.

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

4) The next item on the agenda today was the matter of **STANLEY & VIVIAN PICHENY and ALSTON & HOLLY BEINHORN (owners of nearby properties and herein referred to as "Appellants")** for: an application appealing the Building Inspector's determination, dated February 16, 2022, which denied the application of **37 Bay Road, Inc./Silverstein** (herein referred to as applicants/landowners) for a building permit to construct 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, which property 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. In recognition of the Board of Appeals' decision, dated January 12, 2022, the Building Inspector's denial of the permit at 37 Bay Road requires the applicants/landowners to obtain the Planning Board's interpretation of certain Declaration of Covenants and Restrictions that were imposed by the Planning Board as a condition of approval of the underlying subdivision. Appellants request the Board of Appeals direct the Building Inspector to deny the permit without such Planning Board interpretation.

Ms. Chepiga said that a letter requesting an adjournment from Attorney Jeffrey Bragman had been received. She asked for a motion.

**MR. PEIFFER MADE A MOTION TO ADJOURN THIS MATTER TO THE NEXT MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

5) The next item on the agenda was the holdover matter of **KRISTA ARCHER – 40 QUAQUANANTUCK LANE [SCTM# 14-1-12.1] for:** a reopened application for variances from the provisions of (1) §196-13(B)(4) in order to legalize a pool house under construction with a height from finished grade to the peak of the roof is 19.8’ where 16’ is permitted; (2) the height in relation to the mean elevation of the street is 29.8’ above mean sea level where a height of 21.9’ above mean sea level is permitted; and (3) all other necessary relief on premises located on the southerly side of Quaquanantuck Road, approximately 250 feet east of Beach Lane in the A-3 Residence District.

Ms. Motz was present on the teleconference for the applicant. She explained that she has submitted an alternative to the original application with the roofline lowered to elevation of 27 feet. This will preserve the peak of the roof, while lowering the elevation. She further argued that they can’t put a flat roof on the property because of restraints from the State Preservation Agency. Ms. Motz said the structure itself is conforming at a height of 16 feet, and they are asking for 5.1 feet of relief. Mr. Bruyn asked Ms. Motz to explain the jurisdiction of the State Agency. Ms. Motz explained that when they applied to the DEC for a permit, they were instructed to contact the Office of Historical Preservation. The reason being is that this house is considered a contributing structure to the Quogue Historical District. Mr. Ryan asked if there was a pool house originally on the property back in historical time. Ms. Motz said that there was a detached garage on the property, not a pool house. She referred to her April 15<sup>th</sup> submission which has language regarding the roofline of the structure from the Office of Historical Preservation. Mr. Bruyn said that the Historical Preservation Agency does not have regulatory authority, their role is to give advice and recommendations to the DEC on the wetland permit, whether or not the project would have an impact on the environment, including historic and cultural resources. Ms. Motz agreed and said they would have to go back to both Agencies for approval if there was a design change. Ms. Archer spoke next. She explained that originally a totally different plan had been presented to Historical Preservation, which was denied, and had to be redesigned according to regulations. Ms. Motz noted that the DEC won’t issue a permit to a project if Historical Preservation Agency has objections. Mr. Giraldo noted that that Historical Preservation got involved in the project in 2019. Mr. Judge asked if they could choose to not remain a historical house. Ms. Archer said it was not her choice, someone previously had applied for historical status before they purchased the house, and that she would rather it was not considered a historic property. Ms. Motz expressed concern on how to move this project forward. She acknowledged that Mr. Tedaldi has submitted opposition to this application. Ms. Motz also noted that many variances have been required for projects Mr. Tedaldi built while working as a contractor in the Village of Quogue. Ms. Motz also noted that landscaping will be planted to block the view to the pool house. Mr. Bruyn asked to see a what the pool house would look like in compliance. Ms. Motz referred to Exhibit 7, and said it would look like that drawing but with a flat roof. The matter of the freeboard being counted twice was discussed next. Mr. Tolley asked if the roof ridge could be reduced to 25 feet, and keep something of a slope on the roof. Mr. Giraldo explained that the windows and doors that have already been ordered, and would be unusable at 25 feet, and that 27 feet is the lowest they would like to go.

Mr. Judge expressed concern on the revised height of the roof. Ms. Motz asked for the matter to be adjourned to the next meeting.

**MR. JUDGE MADE A MOTION TO ADJOURN THIS MATTER TO THE NEXT MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

6) The next matter on the holdover agenda was the application of **NANCY OVERLANDER & CRAIG OVERLANDER - 46 SHINNECOCK ROAD [SCTM# 902-10-3-9.2]** for: 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. Attorney Kittric Motz confirmed that she had submitted a request to adjourn this application to the next meeting. Ms. Chepiga asked for a motion to adjourn.

**MR. TOLLEY MADE A MOTION TO ADJOURN THIS APPLICATION TO THE NEXT MEETING. MR. PEIFFER SECONDED THE MOTION, AND THE MOTION WAS UNANIMOUSLY CARRIED.**

7) The last matter on the agenda today was the holdover application of **DANIEL & ALISA DOCTOROFF 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 submission that was given to the Board. The first item was a letter from Mr. Doctoroff's Physician, Neil Schneider, reviewing the ALS diagnosis and future needs for additional space and medical care in the home. Ms. Strunk next reviewed the letter from Mr. & Mrs. Doctoroff. The letter summarizes how the seven bedrooms in the home are to be utilized by family and caretakers,

and the need for additional space to be added. Ms. Strunk showed the house plans that have been submitted. She reviewed the existing first and second floor areas, how they are being used for storage and mechanical space, and showed the bedrooms and living spaces and how they will be utilized. Ms. Strunk next showed the therapy room plans. Todd Brickhouse, owner of a design firm that specializes in solutions for people with disabilities, spoke next. Mr. Brickhouse explained that he has designed a therapy room for Mr. Doctoroff, and reviewed the stations of the room, and how they will be necessary for his ALS treatment. Next Ms. Strunk reviewed the letter from Katherine Maresca on behalf of Steven Maresca, Consulting Engineer. The letter explains that the existing septic system would have to be upgraded if any additional living space is added to the main house, and how that would be a hardship given the plumbing layout. The letter also states that adding a smaller septic system for a bedroom over the garage would be far less of a hardship. Ms. Strunk showed the survey and where the additional septic system is proposed. Mr. Bruyn asked if the DOH had approved eight bedrooms on the original approval. Oliver Cope explained that other spaces in the house are counted as habitable spaces according to the DOH, and they are at the maximum. Mr. Nowak noted that a portion of the living area could be converted to a bedroom since it is already counted as living space. Ms. Strunk said that the current living areas are all being utilized, and this would not be a feasible solution. Mr. Bruyn asked if the approval from the DOH could be reviewed and documented for the Board. Ms. Strunk next reviewed the supplemental points of law that had been submitted. She noted that the addition of the bedroom in the garage would not change the use of the house in any way. Next Ms. Strunk reviewed the submission detailing other properties in the neighborhood with detached garages, showing the character of the neighborhood. Mr. Nowak noted that the garage at 216 Dune Road is a pre-existing structure. Mr. Bruyn asked if any of these garages have habitable second floor space. Ms. Strunk noted that none of these structures have a Certificate of Occupancy for habitable space, but she does not know how they are actually being utilized. Mr. Nowak said that none of these garages have bedrooms, but one structure has legal office space. Mr. Bruyn asked if any variances had been granted on these properties. Mr. Nowak said he is not aware of any. Ms. Strunk said that what they are proposing is in keeping with the character of surrounding neighborhood, and will have no impact if granted. Ms. Strunk discussed the matter of this application being an area variance as opposed to a use variance. She next reviewed the brief she had submitted from Mr. DePetris on this matter. Ms. Strunk next spoke of the Americans with Disabilities and Fair Housing Acts. She stated that they have shown in the submission that this accommodation will enhance Mr. Doctoroff's quality of life by ameliorating the effects of his disability. Ms. Strunk noted that there is no cure for ALS, and that this variance will quickly solve a very pressing need for this family. She also noted that this is a reasonable request, as it will not cause a fundamental alteration of the zoning scheme in the Village. Ms. Strunk also said that since this was such a unique situation that it would not be setting any precedent. She next reviewed her submission regarding affordable housing. Mr. Tolley questioned the direct connection of granting the housekeeper living space as an accommodation for a disabled person. Ms. Strunk read from page 7 of her submitted brief. She stated that the standard to determine if this is a necessary accommodation is that the desired accommodation will affirmatively enhance a disabled persons quality of life by ameliorating the effects of the disability. Mr. Bruyn questioned if the only way to accommodate this disability is to relocate the housekeeper to a bedroom above the garage. Ms. Strunk said the garage bedroom could, in the future, be used by a full time caregiver. Mr. Bruyn asked what effect this accommodation would have on future owners of this property. Ms. Strunk said that disability law standards deal with the condition of the disabled person, not the conditions

of the property. She said the benefits of this variance would be massive to the family, while having no negative impact to the surrounding community. Mr. Judge expressed concern that this variance would be setting a precedent for garage apartments. Mr. Judge said that he feels there are other feasible alternatives. Ms. Strunk noted that this is a single bedroom, not an apartment, and she does not believe that this will be setting a precedent. Mr. Ryan spoke of the significance of not having second dwellings on properties as a fundamental principle of zoning regulations in the Village of Quogue. He stated that there are very few homes with live in housekeepers in Quogue, and he feels there are other viable options to overcome this issue. Mr. Ryan stated that it is his point of view that to grant this variance would be setting a significant precedent. Mr. Bruyn noted that the DePetris brief that was submitted pertains to a Southampton Village case, not the Village of Quogue. He further explained that the DePetris brief was a case where the court confirmed that an area variance would only be necessary for the reconstruction of a pre-existing, non-conforming second dwelling or cottage on the property. Mr. Bruyn asked which section of the Code the applicant seeking a variance from, and what is the dimensional requirement that they are seeking to vary to allow the use. Mr. Bruyn noted that the height variance does not have anything to do with the use. Mr. Bruyn said that there are cases where the courts have interpreted the conversion of garages to second residences as second dwellings on properties, and have confirmed Zoning Boards interpretations that such changes require use variances. He next discussed the American Disabilities Act. Mr. Bruyn said it would have to be shown how the zoning policy would have a disparate impact on people with disabilities as compared to people without disabilities. He also discussed the tests that the Board would have to apply and said he would provide literature to the Board regarding this. Mr. Bruyn next discussed the issue of the choice of who will use the bedrooms in the house. Mr. Bruyn said that these issues should be addressed, along with the possibility of converting habitable space in the existing home. Mr. Bruyn said he does not know of any other similar variances being granted for garage housing in Quogue Village. Ms. Strunk thought that the disparate impact issue does not apply in this case. Ms. Motz suggested that possibly a temporary variance could be granted to accommodate Mr. Doctoroff's medical treatment, and then eventually the garage could be converted back to non-habitable space. Ms. Chepiga asked if anyone else had any questions. No one did. Ms. Strunk asked that this matter be held over for all purposes and adjourn until the June meeting. Ms. Chepiga asked for a motion to adjourn.

**MR. JUDGE MADE A MOTION TO ADJOURN THIS MATTER TO THE NEXT MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**There being no more business, the meeting was adjourned.**