

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY JUNE 29, 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, George Sard (Alternate Member), Village Building Inspector William Nowak, and Village Attorney Wayne Bruyn

1) Ms. Chepiga opened the meeting with a roll call, and set the date of the next meeting to Wednesday, July 20, 2022 at 3pm. Ms. Chepiga asked for a motion to approve the minutes of the May 25, 2022 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE MAY 25, 2022 MEETING. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter on the agenda for today was the application of **GERALYN DELLA CAVA at 25 BEACH LANE [SCTM# 902-11-2-35] for:** a variance from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit a combined one- and two-story, 23’7” by 20’5”, garage and breezeway addition to northwesterly corner of an existing two-story dwelling with a rear yard setback of 59.1’ where 70’ is required; (2) §196-12A (Table of Dimensional Regulations) in order to permit a one-story, 20’5.5” by 20’5” addition to replace an existing “three-season room” on the westerly portion existing two-story dwelling with a rear yard setback of 58.9’ where 70’ is required; (3) §196-12A (Table of Dimensional Regulations) in order to permit a combined one-story frame addition and 15’8” by 12’11” “three season room” on the westerly portion of an existing two-story dwelling with a rear yard setback of 60.8’ where 70’ is required; (4) §196-48 (Height of Additions to One-Family Dwellings) to permit the aforesaid additions to the existing two-story dwelling with a height of 24’ where only 16’ is permitted; and (5) all other necessary relief on premises consisting of a conforming flag lot with 45,474 square feet premises located on the westerly side of Beach Lane, approximately 724 feet south of Quaquanantuck Lane in the A-3 Residence District.

Attorney Heather Wright and applicants Geralyn & Ralph Della Cava were both present on the teleconference for the applicant. Ms. Wright reviewed the application. She explained that they are proposing to construct an addition on the rear of the house to add an office, a family room and additional storage. Ms. Wright showed a photo of the rear of the house, and then the proposed rear elevation. To the existing garage, they are proposing to add a gym area, and an office on the second floor. The existing screened porch is proposed to be converted to a family room, and then

a three season room is proposed further south. Ms. Wright noted that this house does not have a basement and the mechanical systems are located in the garage. Ms. Wright said that it was her position that granting this variance would not cause an undesirable change to the character of the neighborhood. She next showed an aerial photo of the property, and noted that the proposed construction would not be visible from the street or to the neighbors. Ms. Wright said that the owners of 8 Leaward Lane have submitted a letter of support for the project, and showed a photo of the hedges that shield the view from these neighbors. Ms. Wright noted that there is no other feasible alternative for the addition, and she feels that the variance is not substantial. She further noted that this project would have no adverse environmental impact, and that these difficulties were not self created. Ms. Chepiga asked if they have had any response from the neighbors at 23 Beach Lane. Mr. Della Cava said they have advised the owners of 23 Beach Lane, and sent them plans, and have not heard back from them. Mr. Tolley said that he believes that the screened in porch was built in 1959 when the house was built, and that the rear setback for this was grandfathered. In 1981, when the ZBA approved the north addition, the setback was not mentioned, which Mr. Tolley felt was further evidence that the setback is grandfathered. Mr. Tolley noted that the addition was only going up to 24 feet high, not the height of the roof, and he felt fine with this proposal. Ms. Chepiga asked if anyone had any further questions. No one did, and Ms. Chepiga asked for a motion to approve this request.

MR. PEIFFER MADE A MOTION TO GRANT THIS VARIANCE. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

3) The next matter on the agenda for today was the holdover 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 has submitted a request to adjourn this matter until the next meeting.

4) The next matter on the agenda was the holdover 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, and applicant Robert Fabian were present on the teleconference. Mr. Fabian explained that the mason contractor who built the patio had told him that no permit was needed, because the area was even with the grass, and not considered a patio. Mr. Fabian said that he found out that this is true in other regions, but not in Quogue. He noted that he has applied for and received permits for all other projects he has done, and would have gotten a permit if he knew one was required. Mr. Fabian explained that he will use the area for pool chairs regardless, and it

would be much more convenient to keep the area as is. He noted that this area is screened from all of the neighbors, and none of them have any issue with the patio. Mr. Peiffer asked who the mason contractor was. Mr. Fabian said he believed it was Dave Pesche. Mr. Peiffer asked if this could be confirmed. Mr. Tolley said that he did not feel strongly about the variance as it is effectively only 13 inches since the Building Inspector routinely permits pool coping that is less than four feet within the setback area. Mr. Judge and Mr. Peiffer and Mr. Ryan agreed. Ms. Chepiga asked if anyone would like to be heard. Mr. Bruyn asked to confirm that there would be some reduction of the patio to be at the 20 foot setback. Ms. Motz confirmed that the patio would be reduced. Ms. Chepiga asked for a motion to approve the variance.

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

5) The next item on the agenda today was the holdover 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.

Attorney Jeffrey Bragman has requested this matter be adjourned

6) 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.

Attorney Kittric Motz was present on the teleconference on behalf of the applicant. Ms. Motz reviewed the revised requested that had been submitted to the board. The applicant is now requesting only three feet of height relief. Mr. Tolley said he is ok with this request. Mr. Bruyn asked that a revised survey showing the heights of the structures be submitted to the Building

Inspector. Mr. Nowak said would also like a set of dated stamped plans. Ms. Chepiga asked if anyone would like to be heard on this matter. As no one did, she asked for a motion to approve the revised request.

MR. PEIFFER MADE A MOTION TO APPROVE THE REVISED REQUEST, AS SUBMITTED ON JUNE 23, 2022 WHICH REQUIRED 3 FEET OF RELIEF AND A ROOF LINE WITH AN ELEVATION OF 24.9 FEET, CONDITIONED UPON A REVISED SURVEY AND STAMPED PLANS BEING SUBMITTED.

7) 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 and Surveyor Floyd Sears were present on the teleconference on behalf of the applicants. Ms. Motz reviewed the submission. Exhibit 2.1, the “as built” survey (from 2001) that was approved by the Building Department shows a lot coverage at 15.5%. Exhibit 2.2, a survey from 2017 showing the additions built with permission, shows a lot coverage of 17.3%, Ms. Motz believes that there was an error in the lot coverage calculation on this survey, possibly something was doubly counted. The lot coverage has been reviewed and is now calculated to be 16.2% currently, or .3% over what was granted previously. Mr. Bruyn asked about the survey when the house was built in 1999 showing DEC lot coverage at 17.3%. Ms. Motz said that driveways are included in DEC lot coverage. Mr. Bruyn thought that might have contributed to the error in the calculation. Ms. Motz said her client is asking for an additional .3% increase in lot coverage for the proposed additions. This request would be adding 500 square feet in additions, respacing 176 square feet of patio space, and removing 83 square feet of decking, with a net of 241 square feet added. Mr. Peiffer expressed concern about the respacing of the patio space as opposed to removing them. Mr. Nowak said that if the patio is checkerboard and under 4 foot he will allow it to not count as lot coverage. Mr. Tolley expressed concern that the applicant is asking for more lot coverage relief over the 15.9% without showing any hardship. Ms. Motz said that the family is growing and they need more space. She said they would consider removing the deck around the spa, which is about 109 square feet. Mr. Peiffer said that the current 16.2% lot coverage was never approved, and he does not consider this a hardship. He said that he does not think any lot coverage over 16.2% should be approved. Mr. Tolley noted that another option would be to remove lot coverage to get back to the 15.9%. Ms. Motz asked that if they could maneuver the space to 16.2%, would that be approved? Mr. Judge said the Board would not want to consider anything over 16.2% lot coverage. Ms. Motz asked to adjourn this matter and come up with an alternative proposal. Mr. Bruyn asked for a plan of the slate patio to be submitted as well, to confirm that it would not count toward lot coverage. Ms. Chepiga asked if anyone had any questions, as no one did she asked for a motion to adjourn this matter until the next meeting.

MR. JUDGE MADE A MOTION TO ADJOURN THIS MATTER UNTIL THE NEXT MEETING. MR. RYAN SECONDED THE MOTION, THE MOTION WAS UNANIMOUSLY CARRIED.

8) 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 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, as been submitted.

Attorney Nica Strunk was present on the teleconference for the applicants. She explained that a very significant modification has been submitted. They are now requesting instead of the variance running with the land, that it be granted as a personal disability accommodation, to be removed when no longer needed. The new request is for a single bedroom over the garage, no kitchen, to be converted to office or gym space after the disability need ceases. The bathroom will be relocated to the first floor, but will include a shower that will be also removed when the disability need ceases. This structure will then be compliant. Ms. Strunk said this will be covenanted, and she does not feel this would be setting any precedent. Ms. Strunk cited a relevant case and said she will send copies of this case to the Board. The only other variances needed would be a small height and setback and possibly the deck relief. She noted that they would need the height variance even if they were asking for a garage or office space above the garage. Right now, the garage is 16.3 feet high. At the time the garage was built, 20 feet in height was allowed. This was changed in 2017 to 10 feet high for garages with flat or shed roofs, but still allowed for 20 feet with a pitched roof. Ms. Strunk explained that this is a shed roof, but because of the grade of the road, the height variance is minimal and would have no adverse impact on anyone. Ms. Strunk addressed the deck next, she said she does not feel it would have any adverse impact either, and she is not sure if it even needs a variance. Ms. Chepiga asked for questions. Mr. Tolley asked if the deck could be removed, and if the garage structure would be heated and air conditioned, and if the shower could possibly be removed. Ms. Strunk said she will consult with her clients about this, but that she thinks what they have proposed is a reasonable request, and that heating and air conditioning would be permitted if this were gym or office space. She further argued that the deck space will be there regardless, due to the design of the structure. Mr. Tolley asked if a pitched roof could be considered. Architect Olivia Pope said that a pitched roof for the garage would not be consistent with the design of the house. Ms. Strunk added that the shed roof works with existing natural landscaping. Ms. Chepiga clarified that since they are not using the entire space over the

garage for the bedroom, there will be a landing that could possibly be used for a porch, but will not expand further than the current garage space. Mr. Bruyn noted that this would be considered a shed roof according to code. Ms. Chepiga asked for any other comments or questions. Ms. Strunk said she will propose a draft covenant to be considered by the Board and Mr. Bruyn. Mr. Ryan and Mr. Peiffer expressed concern about granting a residence above the garage for house staff. Ms. Chepiga asked for a motion to close the public hearing on this matter pending submissions through July 6, 2022, and to adjourn this matter to the next meeting for written decision.

MR. TOLLEY MADE THE MOTION, MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED

There being no more business the meeting was adjourned.