

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY JULY 20, 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, August 24, 2022 at 3pm. Ms. Chepiga said that it is not known at this time if the meeting will be held live or by ZOOM, depending on whether the Governor extends the emergency executive orders. Ms. Chepiga asked for a motion to approve the minutes of the June 29, 2022 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE JUNE 29, 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 **QQNT LLC at 49 QUAQUANANTUCK LANE [SCTM# 902-10-2-53] for:** a variance from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit the construction of a 10' by 16' (143 sq.ft.) pergola 14.3' from the westerly property line where 25' is required; and (2) all other necessary relief on premises consisting of 87,174 square feet located on the northwesterly side of Quaquanantuck Lane, approximately 177 feet west of Post Lane in the A-3 Residence District.

Attorney Robert Kelly and applicant Mr. Lynch (member of QQNT LLC) were present on the teleconference. Mr. Kelly reviewed the application. He explained that the applicants want to add a pergola for shade, and that the location of 14.3 feet from the westerly property line is necessary due to the location of old trees that they are trying not to disturb. He further noted that this will bring the lot coverage of the property from 14.6% to 14.8%, where 20% is allowed. Mr. Kelly showed the survey and the letter from Bartlett Tree Experts regarding the older trees and their root systems. Mr. Kelly noted that a letter of no objection has been submitted by the neighbor, Mr. Melchiorre, who owns several of the surrounding properties, and who would be the only neighbor impacted. Mr. Kelly showed that there would be hedges blocking the pergola from the view of the neighbors. Ms. Chepiga asked if the property to the west is currently under construction. Mr. Kelly replied that he was unsure but it is currently owned by Mr. Melchiorre. Mr. Tolley said that he thought that a small portion of the lot may be used as storage for the construction site across the street. Ms. Chepiga asked what the use of the pergola would be. Mr. Lynch said that it would

be used as a sitting area next to the pool. Mr. Tolley inquired about the floor materials. Mr. Lynch said he thought it would be slate. Mr. Bruyn noted that the plans show that the flooring would be brick. Mr. Lynch said that either material would be fine. Mr. Tolley explained that the board was concerned about the noise of people talking and playing music so close to the neighbor's property. Mr. Peiffer asked when the pool was built. Mr. Lynch thought the pool and brick patio were built when the house was built around 2016 or 2017. Mr. Peiffer expressed concern about the location of the pergola and thought that there could be another location on the property that would be better. Mr. Kelly responded that they don't want to disturb the trees and still be close to the pool. He further noted that because of the depth of the lot, any future house would not be built close to that pool area. Mr. Tolley expressed concern that any future owners of the property would be adversely affected by the noise. Mr. Kelly said that there is a substantial hedge there currently, and that more screening could be planted. Ms. Chepiga asked if anyone had questions or would like to be heard. As no one did, she asked for a motion to approve the variances.

MR. JUDGE MADE A MOTION TO APPROVE THE REQUESTED VARIANCES. MR. RYAN SECONDED THE MOTION. MR. PEIFFER ABSTAINED. THE MOTION WAS CARRIED.

3) The next matter on the agenda for today was the application of **GORDON RAFAJAC at 9 DEERFIELD EAST [SCTM# 902-1-1-18.5]** for: variances from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit the construction of a 1,692 sq.ft. detached 3-car garage in the required front yard and 29.9' from the southerly front lot line where 60' is required; (2) §196-13(6)(e) to permit construction of a 1,692 sq.ft. detached 3-car where the overall floor area of a garage shall not exceed 1,200 sq.ft.; and (3) all other necessary relief on premises consisting of 59,680 square feet located on the northerly side of Deerfield East, approximately 653 feet west of Scrub Oak Road in the A-3 Residence District.

Daniel Kissinger of DK Architectural Design was present on the teleconference for the applicants. Mr. Kissinger reviewed the application. He explained that the applicants want to convert the current garage into living space, and then construct a detached garage, as the homeowner would like a workshop area to work on his cars. Mr. Kissinger noted that a change has been made to reduce the size of the garage from about 1584 sq. ft to 1200 sq. ft., to conform with Village Code. Mr. Kissinger showed the plans and reviewed the use of each area. He further explained that since CR 104 is considered the front yard instead of Deerfield, they need relief from the 60 foot front yard setback to 46.1 feet. Mr. Ryan asked for the lot coverage calculation. Mr. Kissinger said it is 20%. Mr. Tolley asked why the garage needed to be 33.3 feet deep, as that is the area that encroaches into the setback area. Mr. Kissinger said the depth would allow for one car and a 10 to 13 feet area for his workshop. Mr. Tolley asked if the doors could be moved further towards the driveway, or if the workshop area could be reduced to minimize the encroachment. Mr. Kissinger said the doors need to be in this location so a car can be parked in front of the garage, but he would discuss reducing the depth of the garage with the applicants. Mr. Tolley said that since the request was toward CR 104, which is very different from Quaquanantuck Lane, for example, he could be comfortable with the variance if the depth of the garage was reduced. Mr. Ryan said he agreed. Mr. Peiffer asked for more information about the reduction of the garage in size from 1584 to 1200 sq. ft. Mr. Kissinger showed the areas of the garage that were changed,

with the depth being reduced from 34.6 ft. to 33.3 ft. Mr. Peiffer expressed concern about lot coverage being at the maximum of 20%, with no room for any error. Mr. Bruyn said he agreed with the lot coverage concerns. He also asked for these changes to be submitted to the Board as this application will have to be re-noticed. Mr. Bruyn asked about the fence on the original application. Mr. Kissinger said they are only keeping the existing fence, and adding a new gate. Mr. Bruyn asked if the northerly structure would be considered a pool house. Mr. Kissinger replied that this structure is considered a screened in porch with a roof, with motorized screens that come down. Mr. Nowak said since it is attached by a roof, it is considered an attached porch. Mr. Bruyn asked if this could be confirmed since it is not heated. Ms. Chepiga asked if anyone had any questions or would like to be heard. Mr. Kissinger asked to adjourn so they can submit an amended application. Ms. Chepiga asked for a motion to adjourn.

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

4) The next matter on the agenda today was the application of **ANGRY CHICKEN HOLDINGS, LLC** at **5 FAIR OAKS LANE [SCTM# 902-6-1-13]** for: a variance from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to legalize the installation of an approximately 4.5' by 9' whole house generator 31.3' from the westerly side lot line where 35' is required; and (2) all other necessary relief on premises consisting of 97,575 square feet located on the westerly side of a private 20' wide right-of-way known as Fair Oaks Lane, approximately 440' north of Bay Road in the A-3 Residence District.

Architect Nicholas Vero was present on the teleconference for the applicants Mark and Elizabeth Meyer of Angry Chicken Holdings, LLC. He explained that an error had occurred in locating the generator and it was located 31.3 feet from the northerly property line where 35 feet is required. Mr. Vero said they have been in touch with the neighbor, Mrs. Somekh, and she had no objections. Mr. Vero further noted that this area is heavily landscaped to screen the neighbor's view. Mr. Vero said that the generator cycles once a week for 15 minutes and that the noise is a low decibel, and that the landscaping helps reduce the noise. He noted that the estimated cost to relocate the generator would be over \$21,000. Mr. Peiffer asked if Mike Owen installed the generator, and if he could explain how this error occurred. Mr. Vero explained that a mistake was made, and the measurement was made from the house instead of the property line. The mistake was only discovered when they applied for a Certificate of Occupancy. Mr. Peiffer asked if the concrete pad was pre-made. Mr. Vero said it was not pre-made, and was poured on site. Mr. Peiffer said that the area is screened from everything but the neighbor. Mr. Vero said they need access to the area and will install a gate and then screen the area. Mr. Peiffer expressed concern about the gate area being open to the neighbor's property. Mr. Vero said they will screen that side as well. Mr. Peiffer asked why the contractor would charge over \$21,000 to correct a mistake that he made. Mr. Vero said it was partly his error as well, and would probably have to be split between him and the contractor. Mr. Peiffer questioned then if this was actually a hardship to the applicant then. Mr. Vero said that this was an honest mistake, made by human error. Mr. Peiffer said that the number of errors made in the Village are concerning to him. Mr. Tolley agreed, and then asked for details about the screening. Mr. Vero said they will put a fourth side to the fence with two

returns and a gate in the middle toward the west property line for service access. Mr. Tolley asked that the gate be moved to the house side, and additional screening added. Mr. Vero said they could move the fixed fence to the west side and put a gate on the side toward the house. Mr. Nowak said that in the setback area only a 4 foot fence that is 40% open is permitted and would also need a variance. Mr. Meyer confirmed that they are fine to move the fence and gate as suggested. Both Mr. Ryan and Mr. Judge agreed with this solution. Mr. Bruyn said that the fencing variance would fall under the “all other necessary relief” and would not have to be re-advertised. Ms. Chepiga asked for a motion.

MR. RYAN MADE A MOTION TO GRANT THE REQUESTED VARIANCES AND ALSO A VARIANCE FOR SOLID FENCING WITH A GATE OPENING TOWARD THE APPLICANT’S HOUSE WITH ADDITIONAL SCREENING REQUIRED. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) The next matter on the agenda was the holdover application of **JONATHAN & ALEXIS DURHAM – 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 requested an adjournment until the next meeting

6) The next matter on the agenda 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.

Mr. Bragman has requested an adjournment until the next meeting.

7) The next matter on the agenda was the holdover application of **NANCY OVERLANDER & CRAIG OVERLANDER - 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.

Attorney Kittric Motz was present on the teleconference for the applicants. Ms. Motz explained that an amended request has been submitted. A schematic of the amended stepping stone area has been included in the site plan. The tennis court area has also been reduced by 2 feet and the fence has been relocated. These changes reduce the lot coverage to 16.2%. Ms. Chepiga asked for any questions or comments. There were none, and Ms. Chepiga asked for a motion to grant the amended request.

MR. JUDGE MADE A MOTION TO APPROVE THE AMENDED VARIANCE REQUEST WITH LOT COVERAGE OF 16.2%. MR. PEIFFER 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.

Ms. Chepiga noted that an opinion from the Board is currently being drafted and will be presented at the next meeting. She asked for a motion to adjourn.

MR. RYAN MADE A MOTION TO ADJOURN THIS APPLICATION TO THE NEXT MEETING FOR WRITTEN DECISION. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

There being no more business the meeting was adjourned.