

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY AUGUST 30, 2023
3:00 P.M.**

Members present: Chairperson Pamela Chepiga, Brendan Ryan, Ed Tolley, Bruce Peiffer, Geoff Judge, Alternate member George Sard

Others present: Village Attorney Wayne Bruyn, Village Building Inspector William Nowak, Deputy Village Clerk Denise Michalowski, Jacqueline Morley, Robert & Lynn Ducommun, William Heine, Heather Wright, Eleanor Flatow, Jim Hulme, Charles & Wendy Hammer, Lorie Torpey, Kittric Motz, Michael & Susan Luyckx, Michael Luyckx Jr. and Margaret Nordlinger

1) Ms. Chepiga announced that all Board members (and alternate member) were present at the meeting, she then set the date of the next meeting to September 27, 2023. She then asked for a motion to approve the minutes of the July 12, 2023 meeting.

MR. RYAN MADE A MOTION TO APPROVE THE MINUTES OF THE JULY 12, 2023 MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first matter on the agenda was the application of **ROBERT C. & LYNN A. DUCOMMUN – 12 POST LANE [SCTM# 902-10-3-44]** for a variance from the provisions of §196-13(6)(b) in order to permit the construction of a cupola on the roof of a proposed detached garage to a height of 24.4’ where a maximum of 20’ is allowed; and all other necessary relief on a nonconforming 34,074 sq. ft. parcel of land located on the westerly side of Post Lane, approximately 375’ north of Niamogue Lane in the A-3 Residence District.

Attorney Jaqueline Morley, Architect William Heine and property owner Mr. Ducommun were present for the application. Ms. Morley explained that her clients have two applications before the Board today, one for 12 Post Lane and the other for 14 Post Lane. Ms. Morley reviewed that these two properties share a boundary line and a driveway. She continued that 12 Post Lane is improved with a single-family dwelling, pool and existing shed. Ms. Morley said her clients are proposing to construct a garage with a cupola on the roof. The height of the garage is at 19.5 feet, and the addition of the cupola will put the height over the 20-foot maximum for a pitch roof garage. Ms. Morley noted that the cupola will not be visible from either Post Lane, nor the neighboring properties. She added that the existing shed and the pool equipment are to be removed, and that the garage will line up with the common driveway, which is well set back from Post Lane. Ms. Morley noted that this has been approved by the Design Review Board. Ms. Morley said that the design of the garage is in keeping with the character of the

neighborhood. She noted that this is not a substantial request at 4.2 feet in height, which has decreased slightly from the original 4.4 feet in height originally requested. Ms. Chepiga asked for clarification as to whether this is proposed to be a 1 or 2 car garage, as in the narrative it says this will be a 2 car garage. Ms. Morley said the intention is for a one car garage with a single door. Mr. Nowak explained that the 22-foot width of the bay would deem the garage as two car. Mr. Judge asked the purpose of the cupola. Ms. Morley said the cupola is for aesthetic purposes, to match the design of the existing structures. Mr. Tolley asked if there were other cupolas on the homes currently and asked the dimension of the cupola, and if there would be lighting in that area. Ms. Morley confirmed that there are no other cupolas on the existing structures, and that cupola is proposed to be 3 feet by 3 feet, with no lighting. Mr. Heine spoke next. He explained that the proposed garage is an oversized one car garage which is needed for storage, as the house is in a flood zone and has no basement. The garage has room for one car, and an area on the side for storage of bikes and beach toys and such. The roof line of the garage was designed to match the house, and there currently is a building permit in place for the garage without the cupola. Mr. Tolley asked if the other properties that were cited in the narrative were granted height variances for the cupolas. Ms. Morley said she did not believe that the properties needed height variances for the cupolas, but she will research this. Mr. Bruyn asked if plans for the revised height could be submitted into record. Mr. Ryan expressed concern regarding the hardship aspect for a decorative structure. Mr. Ducommun spoke next and said that the cupola will add architectural value to the property, and to the community. Mr. Tolley also questioned the hardship aspect in this matter. Ms. Chepiga asked if anyone else would like to be heard. As no one did, Ms. Chepiga said they will keep the record open for submissions regarding the precedent of other properties with cupolas. She then asked for a motion to adjourn for all purposes to the next meeting.

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

3) The next matter on the agenda was the application of ROBERT C. DUCOMMUN AS TRUSTEE OF THE ROBERT C. DUCOMMUN TRUST U/A/D 05/12/95 and LYNN A. DUCOMMUN – 14 POST LANE [SCTM# 902-10-3-33.2] for a variance from the provisions of §196-49 in order to permit the construction of an additional 282 sq. ft. of habitable space above the existing detached garage as a recreation room increasing the gross floor area of the dwelling to 6,763 sq. ft. where 6,481 sq. ft. is allowed; and all other necessary relief on a conforming 44,010 sq. ft. parcel of land located on the westerly side of Post Lane, approximately 168' north of Niamogue Lane in the A-3 Residence District.

Ms. Morley, Mr. Heine and Mr. Ducommun were present for the application of 14 Post Lane. Ms. Morley distributed interior photos of 14 Post Lane, and reviewed the application. She explained that the area exists currently as a two car garage and the applicants are proposing to buildout the area above the garage for a recreation room or office area. The house currently has four bedrooms and they have received Suffolk County Health Department approval for six bedrooms. Roughly half of the structure could be built out as of right, and only 282 sq. ft requiring variance relief. Ms. Morley further noted that this property is also in a flood zone, and cannot have a basement, therefore, GFA in the main dwelling is used toward mechanical

equipment. Ms. Morley explained that as the garage is already existing, it would not change the character of the neighborhood, the changes would be done in the interior of the structure. Ms. Morley said this is a non-substantial request and would have no effect on the environment of the surrounding area. Mr. Heine spoke next. He explained that there would be no exterior changes to the structure. He further noted that they can, as of right, build out 293 sq. ft. of this area, and that adding the 282 sq. ft will link the area to the existing balcony, which will provide an emergency egress. He added that as the property is in a flood zone, they are limited as far as alternative solutions. Mr. Heine also noted that the applicants already have a building permit to add a bedroom to the area to the east. Mr. Tolley asked if there would be a change in mass or volume to the property. Mr. Hines said that the variance area would not add mass or volume to the structure, but the dormers that they currently have a building permit in place for will. Mr. Hines reviewed the drawings with the Board. Mr. Bruyn asked about the ownership of the two properties. Ms. Morley explained that they are owned single and separate, with 12 Post Lane being owned by Lynn and Robert Ducommun, and 14 Post Lane is owned by the Trust. Mr. Bruyn asked if the applicant built the house knowing that they would need a variance to complete the habitable space above the garage. Ms. Morley said there was a different architect at the time. Ms. Morley next reviewed other GFA variances that have been granted in the Village. Ms. Chepiga said that the 18 Beach Lane variance was only granted to allow for an elevator for a handicapped member of the household, and to correct an error due to a miscalculation. Mr. Ducommun corrected that this area will be used as a bedroom for his grandchildren, not a recreation room or office. Ms. Chepiga asked if anyone would like to be heard. Ms. Motz asked if the garage is attached or detached. Mr. Nowak said this would be considered detached with a breezeway. Ms. Morley asked if this matter could be kept open and adjourned. Ms. Chepiga asked for a motion to adjourn for all purposes to the next meeting.

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

4) The next matter to be heard was the application of **ELEANOR FLATOW AS EXECUTRIX OF THE ESTATE OF CONSTANCE S. DEROPP – 3 INDIAN PIPE DRIVE [SCTM# 902-2-1-61.15]** for a variance from the provisions of §196-12A (Table of Dimensional Regulations) in order to permit the issuance of an updated Certificate of Occupancy legalizing the existing buildings and structures with a lot coverage of 22.5% where 20% is allowed; and all other necessary relief on a conforming 43,500 sq. ft. parcel of land located on the southwesterly side of Indian Pipe Drive, approximately 196' southeasterly of Quogue Station Road in the A-3 Residence District.

Ms. Chepiga noted that as Ms. Wright is also representing Board Member Geoff Judge on a pending matter, Mr. Judge will be recusing himself, and Mr. Sard will be taking his place as a voting member.

Attorney Heather Wright and Eleanor Flatow were present for the application. Ms. Wright explained that Ms. Flatow is the executor for the estate of her mother, Constance DeRopp. Ms. Wright reviewed the application. She said that the property is currently improved with a one

story single family dwelling, deck, pool and tennis court, and was originally purchased by Ms. Flatow's parents in 2005. Ms. Wright noted that there is a contract of sale dated June 30, 2023, and as part of the contract, an updated CO was applied for. It was then discovered that the current lot coverage of the property is 22.5% exceeding the allowable lot coverage of 20%. Ms. Wright said that even though this property was issued a Certificate of Occupancy and Certificates of Compliance for the existing structures, a variance will still be required for the lot coverage issue. Ms. Wright next reviewed the history of the property. She said that in August of 1987, CO # 138 was issued for a one story frame house, deck, pool and tennis court, with a survey dated July 17, 1987. She noted that the survey does not show the tennis court, but it was referenced on that survey by note from someone in the building department. Certificate of compliance # 1797 was issued on June 17, 1992 for a second story addition to the structure. Ms. Wright said that there was not a corresponding survey attached to CC # 1797, but a survey was in the file dated December 28, 1994 showing the improvements which are in place currently on the property. The applicant's parents bought the house in 2005, and were planning to convert the covered porch to a first floor addition. Ms. Wright said they never went through with the renovation, but there is an approved stamped survey in the file dated November 29, 2006 showing the current conditions of the property. Ms. Wright said that there have been no changes to the existing footprint, nor any new structures, and none of the previous surveys had included lot coverage calculations. Ms. Wright said as these structures have been in existence for almost 40 years, there would be no impact to the surrounding neighborhood, the lot is wooded, and no one has complained about the structures. The structures on this property are consistent with others in the area. Ms. Wright noted that there is no feasible alternative to this variance, there is nothing that could be easily removed to reduce the lot coverage, and all structures have Certificates with the Village. She added that removing any of the structures would put the current contract in jeopardy. Ms. Wright said that any substantiality would be mitigated by the fact that these structures have been in place for so long. She added that there would be no environmental impact in allowing these structures to stay, and that this was not a self-created issue, as the lot coverage issue was only just discovered. Mr. Peiffer inquired about the asphalt area. Ms. Wright showed pictures of the area, and said it was just an extension of the existing driveway and is included on the 1994 survey, and should not be included in the lot coverage calculation. Mr. Nowak said the basketball hoop didn't meet accessory setbacks and was removed. Mr. Peiffer said the two areas are not the same material. Ms. Wright said it looks like they were the same originally, and were changed for the basketball area, which has since been removed. Mr. Peiffer asked if the tennis court could be reduced. Ms. Wright showed photos and said the ends have already been cut, and it would not be feasible to cut anymore. Ms. Chepiga asked if the builder was Mr. Tedaldi as there have been other issues before the Board with the tennis court size underrepresented. Ms. Wright said it was. Mr. Tolley said he is sympathetic to this matter, and did not see a problem granting this variance. Ms. Chepiga asked for a motion to grant this variance.

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

5) The next matter on the agenda was the holdover application of MICHAEL & SUSAN LUYCKX – 17 WILLOW LANE [SCTM# 902-7-2-40] for variances from the provisions of

(1) §196-3D and §196-7B in order to permit the reconstruction with modifications and additions of a nonconforming single family dwelling with attached garage, screened porch and brick patio on a parcel with three dwellings; (2) §196-47 and §196-48 to permit the reconstruction of the dwelling with a height at elevation 33.88' where the maximum height permitted is at elevation 23.25' in the required front and rear yards; (3) §196-12B (Table of Dimensional Regulations) to permit the reconstruction of the dwelling with the existing attached garage to remain with a front yard/street setback of 19.7' where 60' is required; (4) §196-12B (Table of Dimensional Regulations) to permit the reconstruction of the dwelling with the existing attached garage to remain with a rear yard setback of 38.8' where 70' is required; (5) §196-12B (Table of Dimensional Regulations) to permit the reconstruction of the attached screened porch with a rear yard setback of 34.2' where 70' is required; (6) §196-12B (Table of Dimensional Regulations) to permit the reconstruction of an attached at-grade brick patio with rear yard setback of 18.1' where 25' is required; (7) §196-12B (Table of Dimensional Regulations) to permit lot coverage of 22.04% where 20% is required; and (8) all other necessary relief as set forth on the plans and surveys on a nonconforming 15,295 sq. ft. parcel of land located on the westerly side of Willow Lane, approximately 200' north of Main Street in the A-3 Residence District.

Attorney Kittric Motz and property owner, Mr. Luyckx, were present for this application. The neighbor from 5 Village Lane, Margaret Nordlinger, asked to be heard. She explained that the back portion of her house overlooks the area of this new construction. She further noted that she knew this property had three grandfathered structures. Ms. Nordlinger expressed concerns about the height variance of this structure right on Willow Lane. Ms. Nordlinger said that 17 Willow Lane is A3 Zoning and the new house at the lot to the north is A5 Zoning. Ms. Nordlinger said that she is also concerned about what will happen with the other two structures in the future. Ms. Nordlinger said she assumed that since this was a grandfathered structure, it would have to be built "like for like". Mr. Peiffer asked why Ms. Nordlinger is just coming forth now, as this matter has been on the agenda for months. Ms. Nordlinger said she had been out of the country and only recently became aware of the application, and she thought it could only be rebuilt as grandfathered. Ms. Chepiga said that Ms. Nordlinger could also put any additional concerns in writing to the Board if she wanted to. Ms. Chepiga asked if anyone else wanted to be heard. Ms. Motz said that she believed there are factual errors in Ms. Nordlinger's presentation. She said that the new construction is almost identical to the pre-existing house, and many changes have been made since the original application. Ms. Motz said the old house was 1,507 sq. ft. and the new house is actually smaller at 1,493 sq. ft., with one bedroom being reduced. The setback from Willow Lane remains the same at 19.7 feet. Ms. Motz said the new house increased in height by 3 feet due to FEMA requirements. Mr. Tolley said that perhaps Ms. Motz and Ms. Nordlinger could have a conversation and review the application. Ms. Chepiga reiterated that the Board would not look favorably to any future variance requests for the other two structures. Ms. Chepiga said that the Board would like to adjourn this matter to consider conditioning an approval based on no additional variances being granted for the other structures.

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

6) The next matter on the agenda was the holdover application of **CHARLES & WENDY HAMMER – 3 BARKER LANE [SCTM# 902-7-1-28]** for a variance from the provisions of §196-49 in order to permit the construction/remodeling and additions to a single family dwelling to allow a gross floor area of 5,630 sq. ft. where a maximum of 4,930 sq. ft. is permitted, and all other necessary relief on a nonconforming, 31,090 sq. ft. parcel of land located on the westerly side of Barker Lane, approximately 134' south of Quogue Street in the A-3 Residence District.

Attorney James Hulme and property owners Mr. and Mrs. Hammer were present for the application. Mr. Hulme reviewed the application. He explained that the house was issued a CO in 2015. He noted that this is a two story house with a one story addition, and an attached one story garage, a pool and patio. No variances were required on the original construction, but a pre-existing condition of the property is that it is only over 31,000 sq. feet in the A3 Zone where 43,500 sq. ft is required. Mr. Hulme explained that the applicants are proposing a second story addition over the garage, and a second story addition over the existing dining room area. Mr. Hulme noted that the only relief required to complete these additions would be a GFA variance of 700 sq. ft over what is permitted. He further noted that 286 sq. ft would be in the back area over the dining room, and 414 sq. ft would be located over the garage. Mr. Hulme said that the property is undersized, and if it was not, they would not need a variance for these additions. Mr. Hulme said that other GFA variances have been granted and were cited in his submission. He noted that 13 Dune Road was granted 14% GFA relief, similar to his client's request, and that 18 Beach Lane was originally granted 23% GFA relief, and then later 37% due to an error in calculation. He further noted that at 16 Barker Lane a small 5% GFA relief was granted. Mr. Hulme said the impact to the neighborhood would be minimal as the request is spread between the front and back of the house. Ms. Chepiga said that one thing to consider is the change in the bulk of the house, and in this instance, the house is changing. Mr. Hulme said the roof line is changing, but it will be masked by the height of the roof directly behind it. Mr. Peiffer said the three variances that Mr. Hulme cited were granted due to hardship, and he did not feel like that is the case in this instance. Mr. Hulme said that in the other cases, other relief besides GFA was necessary, and that his clients are only asking for GFA relief. He also noted that this building would be allowed at this height and shape if it was to be open space and not habitable space. Mr. Tolley said that in this case, and not the others, there is a neighbor who is strongly opposed to the application. Mr. Tolley said he would consider this to be an undesirable effect on the neighborhood. Mr. Hulme said if they built it as open space as allowed, the impact to the neighbor would be the same. Ms. Chepiga said she did not see the hardship in this case. Mr. Hulme said that the standard is the balancing of the benefit to his client versus the detriment to the community at large, and not just to one neighbor. He also said that there are five factors to consider, not just hardship alone. Mr. Hulme said that they could look at a possible redesign that would be more agreeable to the Board. Mr. Hulme asked if they could adjourn for all purposes. Mr. Bruyn said he would like more detail as to the character of the neighborhood, especially regarding GFA in comparison of the proposal. Mr. Bruyn said the intent of GFA needs to be considered in regard to the mass of the building. He also wanted to clarify some numbers in the conclusion as they were different from the beginning of the narrative. Mr. Hulme said they are requesting 700 sq. ft of relief. Ms. Chepiga asked if anyone would like to be heard on this matter. Ms. Torpey of 21 Quogue Street came forward and wanted to express her concern about the mass of the house facing the back of her property. Ms. Torpey has also submitted a letter in

opposition to this application. Ms. Chepiga asked for a motion to adjourn this application to the next meeting.

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

7) The last matter to be heard today was the holdover application of **GEOFFREY P. JUDGE & MARY ANN CASATI - 6 HEATHERWOOD LANE [SCTM# 902-6-3-3]** for variances from the provisions of (1) §196-12 (Table of Dimensional Regulations) in order to permit the expansion of a screen porch on the westerly side of the existing dwelling to a setback of 80.9' from the southerly rear lot line where 100' is required; (2) §196-12 (Table of Dimensional Regulations) in order to permit the construction of a kitchen addition on the easterly side of the existing dwelling to a setback of 84.9' from the southerly rear lot line where 100' is required; and (3) all other necessary relief on an 87,967 sq. ft. parcel of land located on the southerly side of Heatherwood Lane, approximately 550' east of Montauk Highway in the A-8 Residence District.

Ms. Chepiga noted that Mr. Judge will be recusing himself, and Mr. Sard will act as a voting member on this application.

Ms. Chepiga said that a decision has been drafted and reviewed by the Board. She asked for a motion to approve the decision as drafted.

MR. PEIFFER MADE A MOTION TO APPROVE THE WRITTEN DECISION. MR. SARD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

There being no more business, Ms. Chepiga asked for a motion to adjourn the meeting.

MR. TOLLEY MADE A MOTION TO ADJOURN THE MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.