

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY JULY 31, 2024
3:00 P.M.**

Pursuant to §103-a of the New York State Public Officer’s Law and Local Law No. 3 of 2022, this public hearing of the Zoning Board of Appeals was held as a hybrid meeting in a combination of both in-person and videoconference (i.e. ZOOM).

Members present in person: Chairperson Pamela Chepiga, Ed Tolley, Brendan Ryan, Bruce Peiffer, Alternate Member Richard Langan, Jr.

Member Absent: Geoff Judge

Others present in person: Village Attorney Wayne Bruyn, Village Building Inspector William Nowak, Deputy Village Clerk Denise Michalowski, Kittric Motz, Zachary Clanahan, Solomon Cohen, Joan McGivern, Heather Wright, Jennifer Coster, Christopher Brody

Others present by ZOOM: Theodore Lemoff, Lesley Kyd Rebenburg, Robert Vermilyen, Jim Coster

1. Ms. Chepiga took a roll call, and noted that Mr. Sard has stepped down as an alternate member, and thanked him for his service to the Village. She then announced Richard Langan Jr. as the newly appointed alternate member. Ms. Chepiga added that Mr. Langan will be a voting member for this meeting in Geoff Judge’s absence. She asked for a motion to approve the minutes of the June 26, 2024 meeting, and set the date of the next meeting to September 4, 2024 at 3pm.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE JUNE 26, 2024 MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2. The first matter to be heard was the application of **LESLEY KYD-REBENBURG – 93 OLD DEPOT ROAD [SCTM# 902-9-3-22]** for variances from the provisions of: (1) §196-12A (Table of Dimensional Regulations) in order to permit the construction of a 25’ by 14’ detached one-story garage with a southerly side yard setback of 10’ where 25’ is required; (2) §196-13G to allow the conversion of an existing, nonconforming 20’ by 20’ (400 sq.ft.) detached storage building (formerly a garage) to a pool house where conversion of a nonconforming accessory structure is prohibited; (3) §196-13B(4) to allow the conversion of an existing, nonconforming 400 sq.ft. detached storage building (formerly a garage) to a pool house where the maximum floor area of a pool house is 250 sq.ft.; and (4) all other necessary relief as set forth on the plans and survey submitted with the application, on a nonconforming 43,461 sq.ft. parcel of land located on the westerly side of Old Depot Road, approximately 397’ northerly of Midland Street in the A-3/A-5 Residence Districts.

Attorney Kittric Motz was present at the meeting, and Lesley Kyd-Rebenburg was on the ZOOM call. Ms. Motz reviewed the amended application and explained where the applicants are proposing to construct the one story garage. She next discussed the storage building reclassification to a pool house and said they would be removing the HVAC that currently is installed in this building. Ms. Chepiga said that the Board feels that the Design Review Board should review this proposal and provide comments. Mr. Tolley said the Board was concerned with the garage being constructed in the front yard, and asked if there were alternatives. He thought perhaps the storage building could be converted to a two car garage, and then a conforming pool house could be built by the pool. Mr. Tolley was also concerned about classifying the existing storage building into an increased non-conforming use as a pool house of this large of a size. Ms. Motz said that the applicants are concerned about disturbing the existing mature landscaping, and that there are other houses in Quogue with garages in the front. Ms. Kyd Rebenburg said that they have already explored the options suggested, and it is not a feasible option for them. Ms. Motz asked for this matter to be adjourned to the next meeting.

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

3. The next matter to be heard was the application of **CHARLES & JENNIFER LYON – 2 POST LANE [SCTM# 902-10-2-47]** for variances from the provisions of: (1) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of a covered porch attached to the existing dwelling with a front yard setback of 36.4' from Post Lane where 60' is required and a side yard setback from the northeasterly property line of 22.7' where 25' is required; (2) §196-12A (Table of Dimensional Regulations) in order to permit the construction of a new elevated wood deck surrounding the swimming pool with a front yard setback of 41.6' from Post Lane where 60' is required; and (3) all other necessary relief as set forth on the plans and survey submitted with the application, on a nonconforming 26,468 sq.ft. parcel of land located on the southeasterly corner of Quogue Street and Post Lane in the A-3 Residence District.

Attorney Heather Wright and Architect Zachary Clanahan were present for the applicants. Ms. Wright reviewed the application. She explained that existing three story dwelling has non - conforming setbacks, a pool with wood decking and a detached summer playroom. She next reviewed the variances and Certificates of Occupancy that have been issued to this property. Ms. Wright explained that the covered porch had been constructed in accordance with the submitted plans, but an error was made, and a portion of the front porch encroaches into the east side yard. The applicants are hoping to legalize the porch, which was designed to keep with the historical look of the dwelling. Ms. Wright added that this request is not closer to the property line than the northeasterly wall of the existing dwelling, or the bay window. Next, she discussed the pool decking. Ms. Wright explained that this is a constrained lot, and the proposed decking would give the applicants some seating area around the pool. She added that the height of the deck will match the current height of the pool, which has been in this location pursuant to a variance that had been granted in the 1980s. She added that the deck will be no closer to Post Lane than the

covered porch, so it will all line up and be aesthetically pleasing. Ms. Wright distributed renderings of the proposed decking to the Board, showing that it will not be visible from Post Lane. The origin of the porch error was discussed. Ms. Wright said this decking will not have a negative impact on the character of the neighborhood, as it is shielded by large trees. She added that because the lot is so constrained, this is not a substantial variance. She further added that they will be installing a new septic system so there will not be any negative impact on the environment. Mr. Tolley said he was fine with the porch and the decking, as long as the trees remain to shield the view of the area. Mr. Ryan said he was fine with the porch, but felt that the decking request was substantial and unnecessary. Ms. Wright said that the proposed decking will not be any closer to Post Lane than what has already been granted. Mr. Clanahan said that this decking was designed so as not to exceed lot coverage for the property. Mr. Bruyn asked if the area of the walkway could be labeled correctly on the survey. Mr. Nowak asked if the width of this area could be noted on the survey as well. Ms. Chepiga asked if anyone else would like to be heard. No one came forward, and she asked for a motion to grant the variances.

MR. TOLLEY MADE A MOTION TO GRANT THE REQUESTED VARIANCES WITH THE CONDITION THAT A COVENANT BE PUT IN PLACE TO ENSURE THAT THE EXISTING HEDGEROW AREA ALONG THE DECKING BE MAINTAINED. MR. PEIFFER SECONDED THE MOTION AND MS. CHEPIGA AND MR. LANGAN VOTED IN FAVOR OF GRANTING THE VARIANCE. MR. RYAN WAS OPPOSED. THE MOTION WAS CARRIED 4 TO 1 IN FAVOR.

4. The next matter to be heard was the application of **6 BEACH LANE LLC – 6 BEACH LANE [SCTM# 902-10-2-64.1]** for variances from the provisions of: (1) §196-22B in order to legalize the construction of a solid retaining wall erected at a height of 2.5’ above the natural grade along the southerly property line where a solid wall cannot exceed 2’ unless the wall provides the required 40% visibility; (2) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of a 2.5’ solid retaining wall erected with a 0’ setback from the southerly property line where 25’ is required; (3) §196-22B in order to legalize the construction of a 6’ solid stockade fence on top of a berm along the southerly property line where a solid fence cannot exceed 2’ unless the fence provides the required 40% visibility; (4) §196-22D in order to legalize the construction of a 6’ solid stockade fence on top of a berm along the southerly property line where the height of the fence exceeds 6’ measured from natural grade; (5) §196-21.1C in order to legalize the construction of a 6’ solid stockade fence on top of a berm where the construction of a fence on top of a berm is prohibited; (6) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of a 6’ solid stockage fence erected with a 0’ setback from the southerly property line where 25’ is required; and (3) all other necessary relief as set forth on the plans and survey submitted with the application, on a 51,140.29 sq.ft. parcel of land located on the east side of Beach Lane in the A-3 Residence District.

Attorney Kittric Motz was present for the applicant. She said they have received the letter from the neighbors, and would like to adjourn to try and work something out with them. Ms. Chepiga asked if anyone would like to be heard. No one came forward, and she asked for a motion to adjourn the application.

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

5. The next matter to be heard was the holdover application of **JAMES & JENNIFER COSTER at 39 DUNE ROAD [SCTM# 902-13-1-3]** for necessary variances from the provisions of: (1) §196-12A (Table of Dimensional Regulations) to replace an existing one-story, 2,304 sq.ft. dwelling with a new two-story, 4,085 sq.ft. dwelling with a covered front porch, elevated rear deck with rear screen porch and roof overhangs/eaves with a front yard setback measured from Dune Road of 29.9' where 30' is required; (2) §196-12A (Table of Dimensional Regulations) to permit the new dwelling to have a side yard setback measured from the easterly property line of 10.5' from the walls and 7.5' from the eave where 25' is required; (3) §196-12A (Table of Dimensional Regulations) to permit the new dwelling to have a total side yard 56.4' measured from the eaves where 60' is required; (4) §196-12A (Table of Dimensional Regulations) to permit the new dwelling to have a rear yard setback measured from the northerly property line along the Quogue Canal of 19.5' from the walls and 16.5' from the eave where 50' is required; (5) §196-13E to permit the new dwelling to have a setback measured from the existing bulkhead and boat slip of 15.6' from the walls and eave and 11.9' to steps attached to the dwelling where 50' is required; (6) §196-13E to permit an elevated rear deck to have a setback measured from the existing bulkhead along the Quogue Canal of 20.9' and from the boat slip of 10.4' where 50' is required; (7) §196-13E to permit an existing flagpole to be maintained with a setback measured from the existing bulkhead along the Quogue Canal of 6' and from the boat slip of 8' where 50' is required; (8) §196-49 in order to permit the new dwelling to have a gross floor area of 4,085 sq.ft. where a maximum of 2,764.2 sq.ft. is permitted; (9) §196-12A (Table of Dimensional Regulations) to permit the construction of the new dwelling and accessory structures with a lot coverage of 24.67% where 20% is required; (10) §196-48A to permit the new dwelling to have an elevation of 39.9' where the maximum height of 16' in the required yards allows an elevation of 18.9'; and (11) all other necessary relief as set forth on the survey, plans and specifications submitted with the application, on a nonconforming, 13,034 sq.ft. parcel of land located on the northerly side of Dune Road, approximately 1,070' west of Beach Lane in the A-2 Residence District.

Attorney Kittric Motz and Jennifer Coster were present at the meeting, and Mr. Coster was on the ZOOM call. Ms. Motz distributed a letter of support from the Denihans, who own 40 Dune Road. Ms. Motz reviewed the amended application. She explained that they have shrunk the footprint of the home, the size of the rooms, have eliminated the garage and the bump out on the side of the house, and the screen porch. Ms. Motz said they can move the water line in order to move the house two feet closer to the road, and still keep the sanitary system in place, but this is as far as they can go. Ms. Motz reviewed the research she had done to expand the scope of the GFA of other homes in the neighborhood. Ms. Motz said that this research shows that their proposal is in keeping with the character of the neighborhood. Attorney Joan McGivern, who is representing Samuel Cohen, spoke next. Ms. McGivern said that a third of Mr. Cohen's site line on his deck will be blocked. She added that the owners of 43 Dune Road never objected about their site line being blocked by Mr. Cohen's house. Ms. McGivern said that she thought the home could be moved south, west and landward to minimize the impact to the neighborhood.

Mr. Cohen showed the Board a picture taken from his deck and said his view would be blocked by this deck if it is built at the proposed height. He added this would decrease the value of his property. Ms. Motz said they cannot move the house to the west as it would not be safe to have it so close to the boat slip, and that grading also needs to be done to accommodate the sanitary system. Ms. Motz said they have decreased the size of the front porch as much as possible. Mr. Tolley said that the issue for the neighbor is that they would want the house built in the same setback from the canal that it has now. Ms. Motz distributed copies to the Board of Mr. Cohen's picture with site lines drawn in. She added that trees could be planted all the way to the bulkhead as of right. Mr. Tolley said both the house and the deck would be blocking Mr. Cohen's view if built as proposed. Ms. Motz said that they can't build the house and accommodate the sanitary system in the original setback. Ms. Motz showed the Board pictures of how Mr. Cohen's deck blocks 43 Dune Road's views. Mr. Peiffer said the Board will take into consideration the view issue, but he felt the main issue is the lot coverage and the GFA. Mr. Ryan said that he felt the main issue is the GFA, and that the other houses that exceed GFA were built before the new law was put in place. Mr. Bruyn said a good percentage of the house is an open foyer on the second floor, which could perhaps be decreased. Mr. Bruyn said that they would not need a variance for the front porch if it was not a covered structure. Ms. Chepiga said the point of the new law was to bring down the GFA percentages of new homes being built. She discussed the large and wide open area on the second floor, and how in the past, applicants return to the ZBA to request additional GFA by closing in such areas. Ms. Motz said the applicants would be willing to add a covenant to prevent this. She added that the second floor hallways are included in the GFA calculation. Ms. Motz said that she did not appreciate the insinuation by Ms. McGivern's letter that she was dishonest with the Board. Mr. Nowak said that by eliminating the garage, the house could be brought down to the 11 foot mark as opposed to the 12 foot 9 inches. Ms. Motz said the applicants were concerned about future storms and flooding, and would not want to have to lift the house again. Mr. Bruyn said that showing a drawing with the proposed structures might be more meaningful to show the impact on the view. Ms. McGivern apologized to Ms. Motz for her comments and explained that she felt the house could be moved and the deck lowered to decrease the impact to Mr. Cohen. Ms. Chepiga asked for a motion to leave the record open for submission and adjourn this matter to the next meeting.

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

6. The last matter to be heard was the holdover application of **2 OLD DEPOT ROAD, LLC at 2 OLD DEPOT ROAD [SCTM# 902-1-1-10.1]** (Christopher Brody, as Contract Vendee/Applicant), Application appealing the decision of the Building Inspector, dated April 3, 2024, wherein the Building Inspector determined that the Applicant's proposed bulk propane fuel storage and distribution facility is not a non-nuisance industry and is a prohibited use. The Applicant seeks to construct a bulk propane fuel storage and distribution facility consisting of an approximately 3,000 sq.ft. building to be used as an office with maintenance and storage, three 30,000 gallon underground propane storage tanks with loading station, an approximately 1,225 sq.ft. concrete pad for open tank storage, 12 paved offstreet parking spaces and an approximately 16,350 sq.ft.

stone blend parking area for tank trucks and other service vehicles on a 54,834 sq.ft. parcel known as 2 Old Depot Road, located on the southeasterly corner of Old Country Road and Old Depot Road.

Attorney Heather Wright and applicant Christopher Body were present at the meeting for the application, and Engineering Consultant Theodore Lemoff was on the ZOOM call. Ms. Wright explained that they are appealing the Building Inspector's decision of April 3, 2024. The decision was that the proposed propane storage facility was not considered a non-nuisance industry, and prohibited its use. Ms. Wright explained that what is being proposed is a propane fuel storage facility with four individual offices, two bathrooms and a warehouse, three 30,000 gallon underground storage tanks with a loading station, a concrete pad for the tank storage parking spaces, and 16,350 square feet for parking. She further noted that this is a 54,834 square foot lot in the LI 2 Zoning district, that is subject to 60% clearing, and covenant buffer requirements. Ms. Wright noted that they have updated their survey to comply with the new 40% clearing regulation, and she has submitted a copy for the record. Ms. Wright explained that because the proposed facility is not listed as a permitted use in the Village Code, it is prohibited unless it can be shown that it is a non-nuisance industry and obtain a special exception from the Board of Trustees. She further explained that a non-nuisance industry is defined as an industry that is not detrimental to the environment in which it is located. Ms. Wright said that this proposed facility will not be a detriment, and has submitted an affidavit from Chemical Engineer Theodore Lemoff. Mr. Lemoff reviewed this affidavit. Mr. Lemoff said that propane is sometimes in short supply on Long Island, and having this storage facility would benefit the area. Mr. Lemoff said that while propane is flammable, it is not explosive. He discussed the pressure waves of propane, as stored above and below ground. Mr. Lemoff said this proposed facility is a very safe project and incidents are very rare. Ms. Wright asked if this proposed project could have a negative impact on the water supply. Mr. Lemoff said that propane is not soluble in water and if there were a leak, the propane would spread to the soil, and vaporize at the surface. Mr. Lemoff added that this facility would be considered residential fuel, and therefore it is exempted from EPA risk management requirements. Mr. Tolley asked if this would be a retail or wholesale facility. Ms. Wright said this would be a wholesale facility, with approximately five tractor trailer loads being delivered per week, and then four propane trucks going out for residential deliveries daily. She added that customers will not be coming to site to purchase propane. Mr. Lemoff clarified that because the propane is being used as residential, and not commercial fuel, it would not be subject to the EPA risk requirements. Ms. Wright said that the traffic generated would be typical in the Light Industrial Zone. She added that there will be no additional tenants, and all parking and lighting requirement will be met. Ms. Wright said that the closest residential home is 339.2 feet away and across the street, and the closest business is 282 feet away. Ms. Wright noted that nearby municipalities such as the Town of Southampton and the Town of Riverhead have allowed this type of facility. She further noted that this operation will not cause any injury to neighboring properties. Mr. Peiffer said that it seems like there are enough large propane suppliers in this area, which are located far away from other nearby properties. He also expressed concern about large trucks getting over the railroad berm on Old Depot Road. Ms. Wright said this currently is a vacant property and the tanks would be underground and not visible. Mr. Bruyn said that section 196-16D appears to prohibit this use. Ms. Wright said that she disagrees with that, as there will be not a commodity storage, and there will be no negative environmental impact. Mr. Bruyn thought this could be considered

commodity storage. Ms. Wright said that propane is not specifically listed as prohibited. Ms. Chepiga asked if anyone else would like to be heard. No one came forward and she asked for a motion to adjourn the application for written decision.

MR. PEIFFER MADE A MOTION TO ADJOURN THIS MATTER FOR WRITTEN DECISION. MR. RYAN SECONDED THE MOTION, AND THE MOTION WAS UNIMOUSLY CARRIED.

There being no more business, Ms. Chepiga adjourned the meeting.

Denise Michalowski
Deputy Village Clerk

Date