

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY OCTOBER 23, 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 present by ZOOM: Geoff Judge

Others present in person: Robert Kelly, Martha Reichert, Heather Wright, Dina Burns, Jim Coster, Kittric Motz, Jennifer Bradley, Matthew Daly, Jonathan Paetzel

Others present by ZOOM: Joan McGivern, Chester Murray, Wendy Svarre

1. Ms. Chepiga took a roll call, and noted that all Board members and alternate member are present in person, except for Mr. Judge, who is present on the ZOOM call. She asked for a motion to approve the minutes of the September 4, 2024 meeting, and set the date of the next meeting to December 4, 2024 at 3pm.

MR. RYAN MADE A MOTION TO APPROVE THE MINUTES OF THE SEPTEMBER 4, 2024 MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2. The first matter to be heard was the application of **RAQUEL BAKER at 15 STONE LANE [SCTM# 902-5-1-25]** for a variance from the provisions of: (1) §196-12A (Table of Dimensional Regulations) in order to legalize the a brick patio surrounding the existing swimming pool constructed with a 22.5' setback from the northerly property line where 25' is required; and (2) all other necessary relief as set forth on the plans and survey submitted with the application, on a 80,266 sq.ft. parcel of land located on the northerly side of Stone Lane, approximately 1,000' east of Montauk Highway in the A-3 Residence District.

Attorney Martha Reichert was present at the meeting for the applicant. Ms. Reichert reviewed that this application is to legalize small portion (2.5 feet) of an existing pool patio. She showed the Board a photograph from 1991 showing the patio. Ms. Reichert said that allowing this patio to remain would not cause any detrimental change in the character of the neighborhood, or impact the neighbors. She added that Ms. Baker owns several of the adjoining parcels, and the area of the patio is very small. Ms. Chepiga asked if anyone on the Board or at the meeting would like to ask any questions or be heard. Mr. Bruyn asked what the lot coverage percentage

is. Mr. Judge said the lot coverage is 14.9%. Ms. Chepiga asked for a motion to grant the requested variance.

MR. TOLLEY MADE A MOTION TO GRANT THE REQUESTED VARIANCES. MR. RYAN SECONDED THE MOTION, AND THE MOTION WAS UNANIMOUSLY GRANTED.

3. The next matter to be heard was the application of **35 OGDEN LANE EAST LLC at 35 OGDEN LANE [SCTM# 902-14-1-43]** for necessary variances from the provisions of: (1) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of the dwelling with a setback of 23.0' where the ZBA previously granted a variance to permit a setback of 23.2' from the westerly property line where 25' is required; (2) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of the swimming pool with a setback of 38.1' where the ZBA previously granted a variance to permit a setback of 38.7' from the upland edge of the boat slip where 50' is required; and (3) all other necessary relief as set forth on the survey, plans and specifications submitted with the application, on a nonconforming (as to lot width) 43,678 sq.ft. parcel of land located at the easterly terminus of Ogden Lane, westerly side of Post Lane, and the northerly side of the Quogue Canal in the A-3 Residence District.

Attorney Heather Wright was present at the meeting on behalf of the applicant. Ms. Wright reviewed that they are seeking an amendment to the variances that were granted in 2018. The variances were originally sought to reconstruct the dwelling on the property that was in disrepair, and to make it FEMA compliant. Ms. Wright explained that when the construction was completed, and the as built survey was submitted for the final CO, it was discovered that there were two setbacks that exceeded the relief that was originally granted. She further explained that the setback on the westerly line is 23 feet, and 23.2 was granted, for a two inch variation. Ms. Wright said that for the pool, a 38.7 foot setback was granted, and the setback is actually 38.1 feet to the boat slip. Ms. Wright said that this was an inadvertent mistake made by the builder (VC Home Construction). She added that to correct this mistake would be an extreme expense. Ms. Chepiga asked if anyone had any questions or would like to be heard. No one came forward and Ms. Chepiga asked for a motion to approve the variance request.

MR. TOLLEY MADE A MOTION TO GRANT THE VARIANCE REQUEST. MR. PEIFFER SECONDED THE MOTION, AND THE MOTION WAS UNANIMOUSLY GRANTED.

4. The next matter to be heard today was the holdover application of **JOHN MENSCH - 63 JESSUP AVENUE [SCTM# 902-3-2-31.2]** for variances from the provisions of: (1) §196-12A (Table of Dimensional Regulations) in order to legalize the construction of a stone pool patio constructed with a 18.6' setback from the southerly property line where 25' is required; (2) §196-12A (Table of Dimensional Regulations) to legalize the construction of the patio and other improvements on the property with a lot coverage of 20.07% where 20% is required; and (3) all other necessary relief as set forth on the plans and survey submitted with the application, on a

39,049 sq.ft. parcel of land located on the westerly side of Jessup Avenue, approximately 436' south of Old Meeting House Road in the A-9 Residence District.

Attorney Robert Kelly was present at the meeting on behalf of the applicant. Mr. Kelly submitted to the Board a revised survey. Mr. Kelly said that the driveway was trimmed back so that it is on the property line, a pool fence was added, and some of the patio was removed to decrease lot coverage to 19.99%. Mr. Kelly said that the only remaining request is to legalize the patio at an 18.6 foot setback where 25 feet is required. Mr. Kelly said that back in 2015, the Board had granted a variance to allow a house 15 feet from the property line, and this is a far less request. He added that this is a very well screened lot, and no one will be able to see the patio. Ms. Chepiga asked if anyone had any questions. Mr. Nowak said that he will verify that the buffer is done prior to issuing a Certificate of Compliance. Ms. Chepiga asked for a motion to approve the remaining variance request.

MR. PEIFFER MADE A MOTION TO GRANT THE VARIANCE REQUEST TO LEGALIZE THE CONTRUCTION OF A STONE POOL PATIO CONSTRUCTED WITH A 18.6 FT SETBACK FROM THE SOUTHERLY PROPERTY LINE WHERE 25 FT IS REQUIRED. MR. RYAN SECONDED THE MOTION AND THE MOTION WAS UNANIMOUSLY CARRIED.

3. The next matter to be heard today was the re- noticed application of **JAMES COSTER & JENNIFER COSTER – 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, 3,465 sq.ft. dwelling with a covered front porch, elevated rear deck and roof overhangs/eaves with a front yard setback of 28.1' measured from the front porch, 28.5' from the covered entry, 31.2' from the eaves and 33.0' from the dwelling walls to Dune Road 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 9.0' from the eaves and 10.5' from the dwelling walls where 25' is required; (3) §196-12A (Table of Dimensional Regulations) to permit the new dwelling to have a total side yard 59.4' 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 35.2' from the dwelling walls and 33.7' from the eaves 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 17.6' from the dwelling walls and 15.1' from the eave and 11.9' from the steps attached to the dwelling where 50' is required; (6) §196-13E to permit a 12' wide elevated rear deck to have a setback measured from the existing bulkhead along the Quogue Canal of 23.3' and from the existing boat slip of 9.9' where 50' is required; (7) §196-13E to permit an existing flagpole to be maintained with a setback of 6' measured from the existing bulkhead along the Quogue Canal and 8' from the boat slip where 50' is required; (8) §196-49 in order to permit the new dwelling to have a gross floor area of 3,465 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 23.24% 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 (12) 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 property owner Jim Coster were present at the meeting. Attorney Joan McGivern representing neighbor Samuel Cohen was on the ZOOM call. Ms. Motz said that she is requesting that this matter be reopened for the submission of a revised site plan as mentioned in the letter submitted. Ms. Motz said she would like to submit a revised application moving the house 2.5 feet closer to Dune Road. Ms. Motz said that the proposed porch will now be located 25.7 feet from the water as opposed to the original request of 19.5 feet. She continued that the house has been moved back 8.1 feet from the original request. Ms. Motz noted that this amended application will need to be re-noticed. Ms. McGivern asked for permission from the Board to have their Engineer submit an alternative site plan showing that the septic system can be installed in a way that would reduce the set back by 5 feet, instead of the proposed 2.5 feet. Ms. Chepiga said they can respond to the amended application.

MS. CHEPIGA MADE A MOTION TO REOPEN THE RECORD FOR SUBMITTAL OF A NEW SITE PLAN, AND TO ALLOW THIS AMENDED APPLICATION TO BE RE-ADVERTISED. MR. RYAN SECONDED THE MOTION, AND THE MOTION WAS UNANIMOUSLY CARRIED.

5. The next matter to be heard was the holdover 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 for the applicants. Ms. Chepiga asked for a motion to grant the requested variance to permit the one story garage on the southerly side yard setback of 10 feet where 25 feet is required, and to allow the conversion of a non-conforming storage building, formerly a garage, to a pool house, up to a size of 250 square feet, with the remaining area to be a storage area, which should not be accessible to the pool house, and should conform to all applicable Village Codes.

MR. RYAN MADE A MOTION TO GRANT THE FOLLOWING RESOLUTION. MR. TOLLEY SECONDED THE MOTION AND THE MOTION WAS UNANIMOUSLY CARRIED.

RESOLVED, that the application of LESLEY KYD-REDENBURG for a variance from the provisions of §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; 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 known as 93 Old Depot Road and designated as SCTM# 0902-009.00-03.00-022.000, be and hereby is GRANTED; and

BE IT FURTHER RESOLVED, that the application of LESLEY KYD-REDENBURG for a variances from the provisions of §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 and §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., be and hereby are GRANTED IN PART to the extent that a maximum of 250 sq.ft. of the detached storage building may be converted to a pool house use with the remaining 150 sq.ft. to either be removed (i.e. reduce the size of the building) or physically partitioned from the pool house portion with no access or connection between the spaces (i.e. each space to have its own separate access) and with the further conditions that the there be no HVAC systems in the building and that the building is to conform to all other requirements of the Village Code applicable to accessory buildings and structures.

5. The next matter to be heard was the holdover 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 Kittrich Motz, owner Jennifer Bradley and Arborists Matthew Daly and Jonathan Paetzel were present at the meeting. The owners of 12 Beach Lane, Chester & Christy Murray, were on the ZOOM call. Ms. Motz reviewed the application. Ms. Motz said that the retaining wall and the fence have been removed as per the notice of violation, but they would like to reinstall both. She explained that the purpose of the retaining wall is to ensure that the soil does not leech onto the neighbor's property. She added that they would like to keep the soil berm in its present location, and install a solid sound barrier (either a stockade fence or plexiglass clear barrier) on top of the berm. Ms. Motz explained that Ms. Bradley's bedroom faces the area of 12 Beach Lane where their elevated HVAC units and pool equipment are located, and she wants to install these barriers to reduce the noise from these units. Arborist Matthew Daly spoke next, and reviewed his credentials. Mr. Daly said he went to 6 Beach Lane on August 18th, 2024, during a news worthy rain event. He said it had rained for a number of hours, and he wanted to see if the retaining wall was blocking the escape of water between the two properties. He said that if the wall was blocking the water, he would have seen puddles, which he did not see. He said that there is a slope to the pond, and the only area that had puddles was about 30 feet east of the retaining wall. Ms. Motz submitted three photographs of 6 Beach Lane that Ms. Bradley had taken. Mr. Daly said that these pictures show conditions similar to the conditions he had observed in August. Mr. Daly said that there is a natural slope downhill from the road to the rear of the property of 6 Beach Lane. He said there is an engineered slope from 12 Beach Lane to 6 Beach Lane, which is more severe in the middle of the property, and less severe toward the road, and toward the back of the property. Mr. Daly said these photos were taken looking east, and are more than halfway toward the back of the property. He said he believes that the water is flowing down the slope from 12 Beach Lane to 6 Beach Lane. Mr. Daly said that while all of the areas were wet that day, there were no puddles around the berm area, or retaining wall. Mr. Daly said that looking from the street, and through the fence onto 12 Beach Lane, when he observed the privet on 12 Beach Lane, he did not think any of the privet looked healthy. He said the privet in the middle of the property, toward the berm area was in more shade than the other plants that were along the front of the property. He further noted that it looked like some of the privet in the front of 12 Beach Lane looked like they had been recently replaced. Mr. Daly said the privet to the back of 12 Beach Lane, where the ground was very soggy, looked like they were likely infested with Prunicola Scale. Mr. Daly said this condition is usually associated with chronic exposure to excess water. Ms. Motz asked if anything else besides rainfall could be causing the excess water down at the property line. Mr. Daly said that it would either be rainfall or irrigation issues. Mr. Daly said that he does not believe that the berm, nor the retaining wall is the cause of the excess water to the privet, as the water has an escape route to the east. Mr. Peiffer asked what the two foot berm and the retaining wall have to do with noise reduction. Ms. Motz said they would like to reconstruct the retaining wall and install a see through acrylic fence on top of the berm for noise reduction. Mr. Nowak said even though the barrier is see-through, it would still be considered a solid material. Mr. Murray said that the only noise generated is from one pool pump only, no HVAC units, and are during the day only. He added that this is much less than other normal noises heard throughout the Village. Mr. Murray added that the pump does not go on at night. Mr. Murray said that the letter that has been received from Josh Krentzman contradicts the testimony of Mr. Daly. Mr. Murray said that the health of hedge has declined

since the berm and retaining wall were installed. Ms. Murray said that Mr. Krentzman drilled down into the soil 8 inches to observe the wet conditions. Ms. Murray continued that you can't observe these conditions from the other property. Mr. Murray said that they had planned the drainage system during construction, and are afraid that the berm and the wall have negatively affected the drainage. Ms. Murray said that there are only 8 privet hedges on their property that are infected by the Prunicola Scale, and those privets are east of the area that Mr. Daly is speaking of. Mr. Murray asked that if the variance is granted, that a licensed engineer sign off on a drainage plan to ensure the proper water flow. Mr. Murray added that he did not think the Village should set a precedent with an eight foot solid fence, plexiglass or any other material. Ms. Murray said that she believes that the fence would block the air to the plants. Ms. Murray said that she feels that the noise issue has been resolved, as it is only one pump running during the day time. Mr. Tolley asked if the pool equipment could be enclosed. Ms. Murray said there is not enough room on the required elevated platform, and there has to be circulating air around the equipment. The platform has to remain at the current height as required by FEMA. Ms. Motz asked if any of the privet had been recently replaced. Ms. Murray said two sections of privet were replaced, one along the east side of the property two years ago, and that the privet was lifted by eight inches. Ms. Murray said the privet in the front of the house had to be replaced last year due to construction. Mr. Paetzel, registered Landscape Architect and Arborist spoke next. Mr. Paetzel said that in his opinion the water from 6 Beach Lane is not going to 12 Beach Lane. He said that the water is likely being caused by the slope down from the house to the property line. Mr. Murray said that his landscaper did not notice any deterioration of the hedge until the berm was installed. Mr. Murray said the French Drain that was installed sloped on both sides, and he feels that the wall does not allow for the natural flow of water. Ms. Murray said they have a catch basin and drainage system that was approved by the Village, and that there was never an issue of standing water in the area before the berm. Ms. Chepiga asked if anyone had questions or would like to be heard. Mr. Bruyn asked if there were any other eight foot fences in the neighborhood besides deer fencing. Mr. Bruyn asked Ms. Motz to research the issue of stormwater runoff as it applies to the Village Code, and how the retaining wall affects this issue. Ms. Motz asked that this matter be adjourned to the next meeting.

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.

Heather Wright was present at the meeting. Mr. Bruyn said that the request from Ms. Wright to add the transcript excerpt from the last meeting, pertaining to this matter, to the minutes has been approved. Ms. Chepiga asked for a motion to approve the prepared written decision.

MR. PEIFFER MADE A MOTION TO APPROVE THE PREPARED WRITTEN DECISION, MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY GRANTED

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

Denise Michalowski
Deputy Village Clerk

Date