

**ZONING BOARD OF APPEALS  
SATURDAY, JUNE 29, 2013  
3:00 P.M.**

**Present:** Chairman Ogden Lewis, T. David Mullen, Charles Mott, Alexander Ames, Brendan Ryan, and Village Attorney Richard DePetris

**Absent:** Robert Treuhold

1) Chairman Lewis brought the meeting to order. The board approved and accepted the minutes of the **May 18, 2013** meeting into the record. They also adjourned the application of **David Marr** to the next meeting, which will be held on **July 27, 2013, at 4:00 PM.**

2) In reference to the application of **Sandacres Associates Inc. Sandacres and Creekside Lane**, the board moved to accept the written decision into the record. (See attached decision)

3) The first item on the agenda was the application of **William and Mary Kerr** for a variance in order to permit a proposed tennis court on a lot without a one-family dwelling together with setback variances to 59.8 feet from Meadow Lane and to 14.7 feet from southerly side line for the proposed tennis court, or in the alternative, for a setback variance to 59.8 feet from Meadow Lane in order to permit the proposed tennis court on property to be merged (the merged property would include the adjoining lot to the south which contains a one-family dwelling). Premises are known as **28 Meadow Lane. TM #902-11-1-13.**

Attorney **Daniel Barker** was present for the Kerrs, who were also present for the discussion. Also present was **Joe Spano** the builder of the proposed tennis court, along with **Kristen Trojanowski**, the landscape architect. The Kerrs acquired the property in October, 2012. **Mr. Kerr** explained that they had lived in the area over 40 years. He explained that they envision a very thick, sight and noise barrier of about 30 to 50 feet of heavy vegetation to make the court invisible to the property to the north and the property to the west. **Mr. Barker** continued by explaining that because they wanted to build the tennis court on a vacant lot, they would also be willing to entertain any covenant that the board would indicate at the time of the sale of the property or the Kerrs would entertain

merging the two properties. He also explained that the board had a letter in their file telling why the DEC requested to add additional feet to the wetlands. Mr. Baker said that the grandchildren would be the ones making the most use of the tennis court. The Kerrs had spoken to all their neighbors in the area, who said they would be happy for a tennis court to be built on the lot. The neighbor to the north was also spoken to Mr. Spano. The tennis court would not lead to any undesirable changes in the area as there were other tennis courts in the neighborhood. The landscape architect came forward to explain the position of the tennis court with the use of drawings and photographs. Ms. Trojanowski indicated where they would put additional landscaping to make the court hidden. The board wanted to know if there were reasons why not to merge the property. Mr. Kerr reiterated that they would be willing to take the covenant approach, or if the board preferred, they would take the merge of the two properties. The board wanted to grant the application based on the merge of the two properties but wanted to have specific wording applied.

**DECISION: MR. LEWIS MOVED TO ADJOURN THE KERR APPLICATION TO THE JULY MEETING FOR WRITTEN DECISION. MR. MULLEN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

4) Next was the application of **Stephen Vine** for setback variances to 20 feet from each side line in order to permit proposed tennis court. Premises are known as **15 Arbutus Road. TM #902-4-2-22.**

Mr. Lewis explained that there was a letter of comment in the file from **Eileen Bishop**. **Stephen Vine** was present for his application and explained that he and his family had been coming to Quogue for the past 10 years. Since his married daughter was an avid tennis player who also came to visit them, they really wanted the tennis court. They did not feel that it would have any adverse impact on the area because his neighbors on both sides had tennis courts. He currently has 15 foot high evergreens, on both perimeters, which they are planning to maintain. On the back perimeter they have evergreens which they will be moving but maintaining, so the court will not be visible, and they will add appropriate landscaping around the court. The board wanted to know if Mr. Vine could shorten his court since their variance requests were so extensive. Mr. Vine explained that they were told that to shorten the court to less than 100 feet would be less desirable. **Kevin Healion** from **Century Tennis** came forward to explain that he had been helping the Vines. He indicated they there were very large trees on the Vines property that they would be moving around, and repositioning to help hide and reduce the sound the tennis court. He also said they could install a closed mesh wind-screen to help cut down the noise factor tremendously. He explained that to shorten the court would affect the playing area. The board decided to discuss the application furthering executive session.

5) Next was the application of **New 108 Dune Road LLC** for a setback variance to 22.5 feet from westerly side line in order to permit existing swimming pool. Premises are known as **108 Dune Road. TM #902-15-2-9.3**

Attorney **Kathryn Dalli** was present to represent the applicants. The board explained that there was a letter in opposition to the application in the file from **Ahmed El Bendary**. Ms. Dalli had not seen the letter so she requested to read it quickly. She then explained that the pool installer did not install the pool to the dimensions of their approved survey and now they have a 2 ½ foot nonconformity. She wanted it noted that because Mr. Bendary's property was to the east of the subject property and, since her client owned the property to the west, their variance request would only affect the western property which was, in fact as mentioned, owned by her client. She also explained that Mr. Bendary's letter was talking about her client making the pool larger, when their application was in fact to get relief from the setback for a pool which had been in existence for the past 12 years, and which her client had originally meant to have installed in a conforming location. The problem was discovered when Mr. Bendary made a complaint about her client to the building inspector and after an investigation was made, it was found out, in 2011, that the pool installer, who has since passed away, had never closed out the permit and had not installed the pool in a conforming location. It seems that the survey that was submitted to obtain the permit was correct but the installer missed the mark by 2 ½ feet in the northwest corner. She explained that her clients have done everything the village requested to correct other issues, and this is the last issue to be cleared up.

**DECISION: MR. LEWIS MOVED THAT THE BOARD GRANT THE NEW 108 DUNE ROAD LLC APPLICATION. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

6) Next was the application of **Martin Frederic Evans** for a minimum and total side yard variances and height variances within the required side yard in order to permit proposed alterations and additions to the existing house or in the alternative to permit reconstruction of the existing house with alterations and additions as proposed, and for setback variances for the proposed deck, and for setback variances for the proposed sanitary system retaining wall, all as described in more detail in the application and shown on the survey. Premises are known as **77 Dune Road. TM #902-13-1-21.3**

Attorney **Robert Kelly** was present for the applicants and the Evans were also present. He explained that after Hurricane Sandy, his clients decided to raise the house to put in a full piling system as per FEMA regulations and to rotate the house so that it would be better orientated and further away from the west neighbor, Mr. Scala. It would also serve to decrease their preexisting nonconformity and increase the setbacks on the west side. Since the house is over 100 years old, the problems existed before the establishment of FEMA and the supplemental height regulations, or any of the village zoning codes. The first floor would go from 5.6 feet up to 14 feet, sea level. They propose to get rid of the existing garage to help reduce their lot coverage, which is only at 15.9%. They need a variance to be 10 feet from the west side yard rather than the required 25 feet. They are proposing the east side yard to be at 29.2, which would make a total of 39.2, as opposed to the required 60. The current house is only 4.2 feet from the west but if they are al-

lowed to rotate the house, as mentioned it would increase the distance to 10 feet from the west. They would need a height variance for the side yard to be over the 16 foot requirement. The second story dormer is 21.4 feet from the west lot line, so 3.6 feet of that dormer is within the 16 foot limit. Mr. Kelly explained that the new septic system would be moved to the front yard, and would require a 3 ½' retaining wall. Their architect, **Sal Iannone** was present to display house renderings and help explain the house layout and elevations. The Evans were requesting to rebuild as opposed to renovating so they could replace all the electric wiring as well as make the house FEMA compliant. Mr. Kelly also explained that their lot reduced down to only 38 feet in the back which restricted them.

The neighbor to the west, **John Scala**, at **73 Dune Road**, came forward to say that he had approved of the Evans original application last year, but he was in opposition to this new application mainly because of the height. He said he would now end up with a house, only 10 feet from him that will probably go 35 feet up. He felt it would substantially reduce the market value of his property. He also felt that with the close proximity of the Evan's house, he would lose all the privacy of the room in his own house on that side and not be able to use his outdoor shower on that side. He also felt that all the variances the Evan's were seeking were substantial and therefore did not like their project. He also indicated that all 4 of the Evan's neighbors who had supported the original application last year have withdrawn their support of this new application.

**Mr. Confessore**, the neighbor at **75 Dune Road**, also came forward to say that he agreed with Mr. Scala and that although he did feel bad for the Evan's lot configuration, he also felt that maybe they could build a more modest house while still being FEMA compliant.

**Wendy Cooney**, the neighbor at **78 Dune Road**, said she and her husband had the same concerns, and that she felt the Evans' house would be of excessive height given the setbacks being requested. She felt it would be a detriment to the neighborhood and she had submitted a letter to that effect to the board.

Attorney Kelly explained that although the one-story portion would be 10 feet from the property line, currently it is 4.2 feet from the line with a very large hedge between the two properties that prevents the Scalas from seeing any portion of their neighbor's house in any fashion. In reference to the second-story dormer that they were requesting a variance for, it would be 21.4 feet or only be 3.6 feet closer than the required 25 foot setback. Mr. Kelly explained that they were not requesting to construct a giant house on the edge of the Scala property, while moving it closer to him. They were instead attempting to move farther away. He explained that they did have an alternative plan with a house that would run longer north and south and would be a full two stories, and for which they would not need any variances. He submitted photos showing the surrounding area and houses. The board decided to discuss the application furthering executive session.

7) After executive session the board ruled on the **Steven Vine** application.

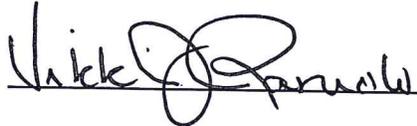
**DECISION: MR. LEWIS EXPLAINED THAT THE BOARD FOUND THAT THEY WERE REQUESTING EXTENSIVE VARIANCES UNDER THE CIRCUMSTANCES AND MOVED THAT THE APPLICATION BE DENIED. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

8) In reference to the **Martin Evans** application, the board ruled.

**DECISION: MR. LEWIS MOVED TO ADJOURN THE EVANS APPLICATION FOR FURTHER CONSIDERATION OF ALTERNATIVE PLANS. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

**(The board wanted to see an alternative plan even if it was not something that the Evans were proposing, but moving the house a little further to the east and keeping the height within the minimum required side yard on each side, and as conforming as possible, might be a consideration, that would help the board better evaluate and come to a conclusion. The board was also requesting that in the future, the architect show elevations clearly marked, in written form, on the plans. The plans need to show existing information as well as what is being proposed.)**

Mr. Scala then explained that while the board was in executive session he made a suggestion to Mr. Evans to take his previously approved plan to raise the house 18 inches and instead raise it 4 feet, in the current location, with the expansion that he had requested, using the same exact project, but Mr. Evans did not seem to want the change. Mr. Evans came forward to say he was looking forward to continued discussions with his neighbors to work things out, as he was struggling to meet FEMA regulations, expand the house while making it safe.

Respectfully submitted by:  File date: 7-25-13