

**ZONING BOARD OF APPEALS
SATURDAY, OCTOBER 10, 2015
4:00 P.M.**

Present: Chairman Robert Treuhold, T. David Mullen, Alexander Ames, Brendan Ryan, Bruce Peiffer, and Village Attorney Richard DePetris

Absent: Charles Mott

1) Chairman Treuhold brought the meeting to order. The next meeting will be held on **November 14, 2015 at 4 PM**. Next, was the approval of the minutes of the **September 5, 2015** meeting into the record. Mr. Treuhold asked for a motion to approve the written decision in the matter of the previous application of **Edward T. Otis**, into the record.

DECISION: MR. MULLEN MADE A MOTION TO APPROVE THE MINUTES OF THE SEPTEMBER 5, 2015 MEETING AND TO APPROVE THE WRITTEN DECISION OF EDWARD T. OTIS INTO THE RECORD. THE MOTION WAS UNANIMOUSLY CARRIED.

2) Next was the application of **Brendan and Rose Lavelle** for the following variances : a front yard variance, a height variance within the required front yard, a gross floor area variance to 3,440 SF, a total side yard variance and a height variance within the westerly side yard in order to permit proposed house (including covered front porch and entry steps and roof overhangs on westerly and easterly sides) as more particularly described in the application; variances in order to permit proposed retaining walls as more particularly described in the application; setback variances from Quogue Canal and the proposed boat slip in order to permit proposed swimming pool and proposed deck as more particularly described in the application; a setback variance to 23 feet from the easterly line for proposed elevated platform with air conditioning units; a lot coverage variance to 22.1% for proposed improvements. Premises are known as **45 Dune Road. TM #902-13-1-6**

Attorney **Kittric Motz** was present for applicants. **Mr. Lavelle** was also present. Mrs. Motz explained that the variances were because of the applicant's undersized parcel. Their project would require a sanitary system to be placed in the front yard, which would require a retaining wall with a 5.5 foot rise, and a requested variance of 3.5 feet to bring it to the necessary, regulatory height. The owners are planning to make the retaining wall

faced in stone or covered with landscape material, to make it appealing. Mrs. Motz included that there were many such retaining walls in the immediate area. In reference to the house, Mrs. Motz explained that the front covered entry porch and steps, both stick out somewhat into the required front yard and would need variances. They were requesting 3.3 feet for the porch and an additional 2.3 feet for the steps. The proposed porch would be 156 SF. including the steps. On the west side, they were requesting a 7.2 foot variance and a proposed one foot overhang. On the east side the proposed overhang would be two feet and the chimney would extend even farther, to within 27.4 feet, creating an overall side yard relief request of 4.2 feet. Surrounding the swimming pool is a proposed retaining wall with steps that are 26 feet from the westerly property line and 24 feet from the easterly property line, creating their request for a one foot side yard variance on the east side for the steps and the retaining wall. The proposed retaining wall is needed to stabilize the swimming pool and minimize lot coverage, as they proposed to plant grass instead of building decking in that area. Their A/C units are proposed to be constructed on an elevated pad to within 23 feet of the easterly property line, creating a need for a side yard variance. Mrs. Motz felt to place them in any other location anywhere on the property would create an even greater variance request. In reference to the front porch, Mrs. Motz explained that the highest point where the porch meets the house would require a height variance of 6.1 feet. Then, the roof slopes down, and at the lowest point it would require a height variance of 2.9 feet. At that point the roof would only be 3.3 feet into the required front yard. On the westerly side of the residence where the house extends 7.2 feet into the required side yard, and the roof hang another additional one foot, they are requesting relief for the angle sloping up 2.9 feet. In reference to the lot coverage, Mrs. Motz explained that the proposed lot coverage was 22.1% which was a 361.8 SF. increase, due to the proposed porch, pool coping, chimney, A/C platform, and steps which add up to a total of 379 SF. She included that there were many undersized parcels along that part of Dune Road, some with the same granted variances. Mrs. Motz felt the Lavelle's parcel would not create an unfavorable condition or precedent. Mrs. Motz next turned her attention to the 210.08 SF. gross floor area (GFA) variance request. She explained that she worked hard with her clients to compact things as much as possible. Referring to the surveys in the packet, she pointed out the changes they had already made to reduce GFA. She included houses on Dune Road that had received GFA variances. She explained that none of the proposed rooms in the residence are large rooms. Mrs. Motz felt that the overall design was not extravagantly proportioned and requested that the Board give their special consideration to granting the GFA variance request. Moving on to the water related requests; Mrs. Motz explained that her clients wanted to construct a boat slip. She explained that there were many boat slips in the immediate area along that part of Dune Road, and her clients were requesting relief from the 50 foot water set back in relation to the canal. After talking to neighbors, they had determined that positioning the boat slip, three feet from the property line on the western side of the property would be the most advantage, minimizing the other required water relief setbacks. The swimming pool would be within 24.9 feet of the Quogue canal and 24.4 feet of the proposed boat slip. The surrounding wall would be within 12 feet and 22.7 feet of the Quogue canal. The proposed house deck would be 47.4 feet from the water at the closest point and would needs 2.6 feet of variance relief just for the easterly

corner, to keep it square. Mrs. Motz related which houses in the area had received relief for their decks, pools, and boat slips.

Attorney **Karen Hoag** came forward representing **Mr. and Mrs. Shank**, the neighbors at **47 Dune Road**. It was their position that the Lavelles were trying to cram too much onto a small lot. They felt that there were alternative locations for the A/C units, such as on the west side of the property, or near the house where the driveway and the house met. The Shanks were concerned about the noise from the A/C units and did not understand why the units needed to be on an elevated, 72 SF. platform. They felt that possibly a scaled down house would require smaller A/C units, with a smaller platform. They also felt that if the A/C units were allowed to be positioned where the Lavelle's were requesting, then the Shanks would want a landscape buffer to help shield the noise and hide the visual impact of the units, and some type of noise shielding such as sound proof fencing surrounding the units. The Shanks felt that because of the size of the Lavelle's project that a landscape plan should be provided by the applicants and presented to the Board. The Shanks wanted to be afforded an opportunity to weigh in on how the landscape plan would impact their property. The Shanks would also like to see a landscaping plan incorporated into the proposed front yard sanitary retaining wall to lessen the impact of the retaining wall, especially as it runs 50 feet along the property line. Ms. Hoag explained that while the Shanks appreciate that the Lavelles have scaled back on the width of their deck, they felt it could be scaled back even more, perhaps pulling the deck and pool back to make them more conforming. Because the Lavelle's proposed pool and patio would be elevated, and the Shank's pool and patio are at grade, the Shanks felt there would be an impact to their outdoor living area. The Lavelle's westerly deck would overlook the Shank's pool. Ms. Hoag included that the applicant's variance requests were not the minimum necessary and were all self-created because of the applicant's desire to put so much on a small lot. Her clients felt that without a landscape plan in place they were at a disadvantage, and could not fully ascertain the extent of any adverse impact to them and the community.

Carl Hiltveit the neighbor at **23 Leaward Lane**, directly across the canal, came forward to speak. He said he had lived in Quogue for 45 years and liked the ambience of the area. He felt that while it might be a challenge to build within the code, that challenge was defined by the size of the property when purchased, and the property owner, knew that Quogue had a Village Code. He felt that the applicant's house was "too much". He wanted the Zoning Board to protect the interests of the village. He felt that the applicants definitely had room to make a house within the code without negatively impacting the neighbors. He also agreed that there should be a landscape plan in place.

Mrs. Motz submitted photos and surveys for the Board to review showing existing landscaping on the Shank's property, and explained the line of sight from their property to the canal, showing that they would not be able to see the proposed retaining wall or her client's sanitary system. She explained that in respect to the pool equipment, it was proposed to be located below the deck, so it would not be in a side yard, and that was why it was not shown on the survey in Exhibit Two. Because the majority of the proposed deck would be outside the 50 foot setback, and they were only requesting a 2.6

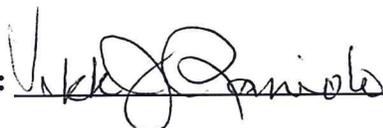
foot relief in one corner, Mrs. Motz felt that to ask them to scale back the entire deck would not be fair. The proposed house itself was almost 60 feet from the water. She explained that because the A/C units are considered mechanicals, FEMA requires them to be elevated and not on the ground. Her clients have already agreed to provide landscaping around the platform for the A/C units.

Mr. Treuhold explained that the Board felt that the Lavelles were aware that the lot was undersized when they purchased it, so to argue that the relief requests are not self-created, was not helpful in as much as the zoning laws were also already in place before they purchased the parcel. He explained that although the Board does work to help those with true hardships, in this situation, they did not feel that was the case. The Board asked the applicant to go back and reconsider their requests. In reference to the swimming pool, the Board suggested that perhaps the applicant could go without a pool since it is the pool that gives rise to so many of the other variance requests. In reference to GFA, the Board, as a rule, does not grant such variances unless absolutely necessary and the Board did not feel that in this case, it was absolutely necessary. Since this was a completely new construction and the Board felt it could be built differently. In reference to the water setbacks, the Board felt that things could be designed so that the deck satisfies the 50 foot set back. With reference to the A/C units, the Board felt there was a place they could be located on the west side of the house, setback from the street, with appropriate screening, that would keep them from impacting the Shanks. In reference to the sanitary retaining wall, the Board felt it might be possible for there to be an alternative size or configuration of the septic area that might be considered. They also felt there could be a different place for the location of the boat slip. The Board suggested that the applicant consider a redesign and resubmit a revised application if relief is still necessary. The Board also requested that if they do come back, that they present the Board with a set of full size plans as opposed to surveys on legal size paper. The Board wanted to be able to clearly see, with visual highlighting, what parts exceed the setbacks. Mr. Treuhold also expressed that while the Board did think it was a reasonable request to see a landscape plan showing buffering where needed, they did not feel that the applicant needed to submit a full property landscape plan at this time.

DECISION: MR. TREUHOLD EXPLAINED THAT THE BOARD WOULD NOT BE GRANTING ANY OF THE REQUESTED VARIANCES. THE BOARD MOVED TO ADJOURN THE LAVELLE APPLICATION TO THE DECEMBER MEETING.

The meeting was adjourned.

Respectfully submitted by:



File date: 11/10/15