

ZONING BOARD OF APPEALS
SATURDAY, JULY 16, 2016
3:00 P.M.

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

1) Mr. Treuhold brought the meeting to order. The first item of business was the approval of the minutes of the **June 11, 2016** meeting. Subject to a few minor corrections, Mr. Treuhold asked for a motion to approve the minutes of the June meeting.

MR. RYAN MADE A MOTION TO APPROVE THE MINUTES OF THE JUNE 11, 2016 MEETING. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) Mr. Treuhold said the next meeting would be held at 3 PM on **Saturday, August 13, 2016**. In reference to the holdover applications, Mr. Treuhold explained that the applicants **James Helmus and Kristin Samsone** of **30 Wintergreen Way** had requested an adjournment to the next meeting. The application of **James and Diana McCarty**, which had been adjourned for written decision, was still pending for precise wording of that written decision. Finally, he explained that the **Samuel Cohen** application of **2 Old Fields Lane** had been withdrawn.

3) With reference to the **Gramins** application of **6 Arbutus Road** that had previously been granted a variance on July 12, 2014, the Board had received a request by attorney **Kittric Motz** for a two year extension. Mr. Treuhold asked for a motion.

DECISION: MR. RYAN MADE A MOTION TO EXTEND THE GRAMINS APPLICATION FOR TWO MORE YEARS. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4) The first new item on the agenda was the application of **Joseph and Christine Cavolo** for height and visibility (open space) variances in order to permit a solid fence six feet in height along part of the westerly line and two picket pool enclosure fences six feet in height extending from the house westerly in the side line and from the house easterly to the side line. Premises are known as **65A Montauk Highway. TM #902-3-4-34.2**

Edward Wolfersdorf was present for the applicants. Mr. Wolfersdorf explained that the owners had installed 10 sections of 8 foot, white vinyl fencing to block the view between their house and the commercial building parking lot just west of them. The parking lot temporarily contained three commercial dumpsters, because one of the offices in the commercial building is presently being reconstructed. Mr. Wolfersdorf submitted photos of the dumpsters from different angles. The Board wanted to know why the Cavalos did not extend their tree line instead of putting up the fence. Mr. Wolfersdorf explained that open space had to remain in that area for access and exit of emergency vehicles. He also explained that while he was photographing parking lots in the Village of Quogue he realized that almost every parking lot had solid six foot fences separating the parking areas from the neighboring residence. He submitted photos and explained the location of each of the six foot fences in the Village. The Board explained that one of the reasons why the fencing ordinance was put into place was to regulate the fact that there had indeed been a lot of six foot solid fences constructed in the Village. Mr. Wolfersdorf explained that his client's fence was therefore within the character of the neighborhood. The Board said that his photos showed fences that were all of natural wood and therefore blended in. Mr. Wolfersdorf explained that those fences deteriorated rather quickly which was the reason the applicants wanted a more permanent material. He felt the Cavalo's fence allowed them more privacy from the commercial property. The Board felt it would be setting a precedent to allow so much solid fencing, and that the applicant was requesting more than the minimum necessary to address their hardship. Mr. Treuhold said the Board was not inclined to grant the application as formulated. He suggested that the application be adjourned so the applicants could come back with an amended request. Mr. Treuhold asked for a motion.

DECISION: MR. RYAN MADE A MOTION TO ADJOURN THE CAVALO APPLICATION. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) Next was the application of **Gregory and Vivian Cioffi** for a new yard variance to 66 feet and a height variance to 21 feet within required new yard for proposed addition to existing house. Premises are known as **41 Pheasant Run. TM #902-4-1-89.**

Attorney **Robert Kelly** was present for the applicants. He explained that the applicants were proposing an addition to the rear of their home, which would be in a compliant location except for a corner which would reach 66 feet into the rear property line where 70 feet is the required set back. There was also a small triangle of structure that would be above the height limit as well. Because there were bedrooms off the opposite side of the house in the rear, they did not want to build the living room addition off the preexisting bedrooms. Mr. Kelly said it was a very well screened lot and did not think it should pose a problem for any neighbors. In reference to lot coverage, he explained that his clients were only at 16.6% and would be adding less than 1%, which still left them well under the lot coverage limit. The Board asked about a shed that they noticed on the property, on the other side of the tennis court. Mr. Kelly said if there were no CO's to cover the

shed, his clients would dispose of it. Mr. Treuhold said the Board felt his request was minimal and asked for a motion to grant the requested variance subject to the shed being relocated to a conforming location or removed.

DECISION: MR. MOTT MADE A MOTION TO GRANT THE REQUESTED VARIANCE FOR GREGORY AND VIVIAN CIOFFI SUBJECT TO THE SHED BEING PLACED IN A CONFORMING LOCATION OR REMOVED FROM THE PROPERTY. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

6) Next, was the application of **JL Quogue Development LLC** for a yard variance to 28.9 feet from the northerly line for the house. Premises are known as **Unit 24, Jessup's Landing Condominium. TM #902-3.1-2-7**

Attorney **Kittric Motz** was present for the applicant, along with **David Kepner**, the managing member of the developer. Mrs. Motz explained that the application involved 13.2 inches that was the result of builder error, causing them to request a rear property line variance of 1.1 feet. Since the house had already been constructed, and the cost to move the entire house for 13.2 inches would be excessive, they were before the Board for what they considered a minimal request. The Board said that upon their inspection of the property, and because they did not have an updated survey, it appeared to them that there was more deck in place than what is shown on the survey. **Mr. Kepner** said he would have to check into that situation. The Board said that if there was indeed more deck in place than what is shown on any survey, they would either have to be removed, or they would need a variance. Mrs. Motz asked that if the Board were to grant their variance could it be subject to the deck being conforming at the time of the issuance of the CO? The Board also mentioned that looking from the front of the subject house, there was a 'paver patio' to the left of the deck, between houses 23 and 24, which is not shown on the survey. **Mr. Kepner** and Mrs. Motz explained that they would be willing to covenant that all structures would conform to the existing setback requirements, and submit a new survey. The Board asked Village Attorney **DePetris** to word the motion.

DECISION: MR. RYAN MADE A MOTION WORDED BY ATTORNEY DEPETRIS: A MOTION TO GRANT THE REQUESTED VARIANCE SUBJECT TO A CONDITION THAT ANY DECK OR PATIO OR SIMILAR STRUCTURE LOCATED LESS THAN 25 FEET FROM THE PROPERTY LINE SHALL BE REMOVED PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY AND THAT AN UPDATED SURVEY SHALL BE SUBMITTED FOR THE CERTIFICATE OF OCCUPANCY. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

7) Next was the application of **William and Suzanne Mills** for a setback variance to 8 feet from the westerly line for proposed relocation of accessory barn, a setback variance to 22.8 feet from westerly line for proposed terrace, a setback variance to 19 feet from

westerly line for proposed air conditioning unit, and minimum and total side yard variances, a rear yard variance and a height variance within required rear yard for proposed additions to existing house. Premises are known as 3 Ocean Avenue. TM #902-10-2-34.

Attorney **Kittric Motz** was present for the applicants, who were also present for the discussion. Mrs. Motz explained that her clients had acquired the house within the last year and it had a preexisting, nonconforming barn, which has a tree growing into the corner of it. The owners want to square off the house and add some bedrooms. Mrs. Motz explained that the home has two overhangs and front steps that are preexisting. There is also a proposed mud room addition in the south corner of the home as well as a proposed one-story addition for a new office/study and bathroom on the opposite side of the house. The Mills also proposed to add a terrace to the house as well as realign the barn, which at the present time, sticks out into rear yard, severely inhibiting any activity in that area. At the present time the barn's corner is 4.6 feet from the side yard and they would like to relocate the barn so it would run parallel and 8 feet from the property line. Even though that location would put more of the barn structure in the side yard, Mrs. Motz felt that under the circumstances, it would be to their advantage since they were moving farther away from the property line, thereby making it more conforming. In reference to the A/C units, the client had proposed to relocate them to the street side of their residence, in a small alcove, and counter-sink them into the ground. Therefore, they were withdrawing their request for variance regarding the air conditioning units. In reference to the second story addition, the Mills were proposing to build straight up, thereby not increasing the footprint. Mrs. Motz also explained that her clients had a companion application before the Board of Trustees for permission to reconstruct and alter the barn. With the use of a photo in her packet, Mrs. Motz directed the Board's attention to the aerial view of the heavily wooded area behind the barn, saying that because the barn was also off to the side, it would not be next to any of the improvements on the neighboring Gardner property. She added that it appeared that the barn had been on the property since the 1930's. Mrs. Motz explained that the tree that was growing into the barn might have to be sacrificed if they are not allowed to move the barn. In reference to the driveway, Mrs. Motz said it cannot be relocated because its position was established pursuant to an easement law suit.

The board mentioned that originally the barn was a garage and they wondered at what point the barn became established as a barn. Mr. Treuhold said that the CO from 1965 did not mention the barn at all. Mrs. Motz said the 1989 CO mentions it as a one-story barn. She said that typically, CO's from the 1960's did not mention accessory structures. Mr. DePetris briefly shared some information from the Zoning Board Minutes of the December 15, 1984 meeting. He said a previous owner Mrs. Stanton, explained that there was an existing barn that had been on the property since the 1920's whose use had never been changed. It was never used as living quarters but was always used as a barn. Mrs. Stanton's son did do some drafting in the barn. The Board wanted to make sure the barn was not going to be used as a pool house. Mrs. Motz said the floor plan for the proposed barn structure showed the living space portion of the building being much smaller, and used for a children's play room. A storage area would be in the back with a

solid wall and a chimney in between. There would be no bathroom in proposed, altered barn, although it would have a seasonal outdoor shower. The Mills would be asking the Board of Trustees if they could keep the wood stove in the barn. Mr. Treuhold mentioned that the Board was troubled by the proposed increase as opposed to a decrease, in the amount of barn in the required setback. They did not want to establish a precedent of allowing the barn to be relocated into even more of a yard setback requirement. The Board did feel that the main house requests were reasonable.

John Bick, the neighbor to the north of the Mill's property, came forward to say that he and his wife were in favor of the Mill's variance requests. He was happy that the Mills had moved the A/C units to the other side of their house. He felt that from his point of view the relocation of the barn to the Mill's proposed new location would be better for them because it would put most of the human activity on the other side of the barn from their property creating less of a noise impact. The Board said that if the Mills were going to move the barn there was room to put it in a conforming location. Mrs. Motz agreed but felt it would involve sacrificing their backyard.

MR. DEPETRIS WORDED THE MOTION AS FOLLOWS:

DECISION: THE BOARD NOTES THAT THE REQUESTED SETBACK VARIANCE TO 19 FEET FROM THE WESTERLY LINE FOR PROPOSED AIR CONDITIONING UNITS WAS WITHDRAWN. WE DENY THE REQUESTED SETBACK VARIANCE TO 8 FEET FROM THE WESTERLY LINE FOR PROPOSED RELOCATION OF THE ACCESSORY BARN. WE GRANT A SETBACK VARIANCE TO 22.8 FEET FROM THE WESTERLY LINE FOR THE PROPOSED TERRACE. WE GRANT MINIMUM AND TOTAL SIDE YARD VARIANCES, A REAR YARD VARIANCE AND A HEIGHT VARIANCE WITHIN THE REQUIRED REAR YARD FOR THE PROPOSED ADDITIONS TO THE EXISTING HOUSE. MR. AMES MADE THE MOTION AS WORDED BY MR. DEPETRIS. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

8) In reference to the holdover application of **Jason and Diana McCarty**, Mr. Treuhold explained to their attorney **Wayne Bruyn**, that because the it was a very sensitive issue establishing a precedent for a second floor in an accessory structure, the Board did not have the written decision ready yet because although the Board had decided to grant the request, it was going to be subject to certain conditions to limit the scope from a precedential perspective, and also in terms of the future. The McCartys were currently using the structure for their accessory home office and the Board wanted to clearly prescribe what that means, and for how long it would last so it would not carry on to future owners. Mr. DePetris explained that while the Board was still in the discussion of the granting of the variance and the wording of the decision, they were considering granting a temporary variance, saying they it would at least give the McCartys a period of time to derive some benefit from it before there would be a need to incur the expense of removal, or alteration, or whatever would be decided. Mr. Bruyn explained that his client's question would be, "How long would the grace period extend?" His client was

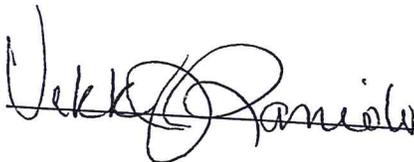
hoping it would last until the change in ownership. So that if a buyer wanted to use it in any other fashion than prescribed, the buyer would have to come back before the Zoning Board. If they for instance, wanted to use it for a home office, he expected that the new buyers would have to come before the Zoning Board and prove its use just as the McCartys were required to do. Mr. Bruyn also thought that maybe something could be added in the covenants allowing the Building Inspector to make prescribed visits to make sure all covenants were still being observed. Mr. Treuhold explained that the Board would have the written decision at the next meeting.

9) Next was the holdover application of **Stanley and Vivian Picheny**. Attorney **Frances Yakabowski** was present for the applicants, along with Mr. Picheny. Mr. Yakabowski explained that his clients wanted the walkways between the main structure on lot #3 and the structure on Lot #2 to be allowed to remain in place, as is. The Board wanted to see photos, because they felt the application did not specifically identify exactly what was being requested. Mr. Yakabowski submitted photos for the board to review. He explained that until Lot #2 was sold, everything was still owned by the Pichenys and the walkways serve the purposes of access from Lot #2 to the Lot #3 garage apartment. He felt that because the walkways were located in what was always going to be the side yard, there was no point to require his clients to destroy the walkways, even though they are called structures. They also did not want to remove the trellises, but if the trellises ultimately had to be removed, then they would remove them. The Board said that at the present time, because everything was still owned by the client, there were actually no nonconformities, but if the Board gave the applicants the variance as presented, the Board would be creating the nonconformity. The Board's feeling was that if they were to grant the variance, and then Lot #2 was sold, the Board would need to require that all the walkways be removed. Mr. Yakabowski explained that they would like to keep the status-quo at least until Lot #2 was sold, and at that point, if they had to remove the walkways, then they would do so. He also explained that in order for his client to go before the Planning Board to apply for their six lot subdivision, they had to either remove the walkways or get a variance, so they were requesting the variances. The Board felt that perhaps a variance that would expire upon the sale of Lot #2 would be the best alternative. The Board needed to have the decision worded correctly, so Mr. Treuhold asked for a motion to adjourn for a written decision.

DECISION: MR. MOTT MADE A MOTION TO ADJOURN THE PICHENY APPLICATION FOR A WRITTEN DECISION. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

The meeting was adjourned.

Respectfully submitted by:



File date: 7-28-16