

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
SATURDAY, JUNE 20, 2020
3:00 P.M.**

Present: Chairman Robert Treuhold, Charles Mott, Brendan Ryan, Bruce Peiffer, Pamela Chepiga, alternate Geoff Judge and Village Attorney Richard DePetris (all by telephone)

1) Mr. Treuhold brought the meeting to order and noted that this meeting was being held by teleconference due to the COVID 19 Governor's Orders. He explained he is exploring video options for the next meeting. Mr. Treuhold asked for a motion to approve the minutes of the May 16, 2020 meeting.

MR. MOTT MADE A MOTION TO APPROVE THE MINUTES OF THE MAY 16, 2020 MEETING. MS. CHEPIGA SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) Mr. Treuhold confirmed that the next meeting would be held on **Saturday, July 18, 2020 at 3:00 P.M.** At this date it is not known if the meeting will be live or by teleconference. Peter Sartorius, Mayor, and Rick DePetris noted that the exclusion for live meetings expires on July 6, 2020 and it is not known if this will be extended due to the COVID 19 virus. This will be determined before the notice goes out.

3) The first item on the agenda is a request from **Willow Jessup LLC** to extend the variance previously granted on August 11, 2018. The premise is known as **99 Jessup Avenue, SCTM# 902-7-2-1**. Mr. Treuhold asked for a motion to grant this extension for a further two year period.

MR. RYAN MADE A MOTION TO APPROVE A TWO YEAR EXTENSION OF THE VARIANCE FOR 99 JESSUP AVENUE THAT WAS PREVIOUSLY GRANTED ON AUGUST 11, 2018. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

3) The next item on the agenda is a request from **Robert & Susanna Jonke** for a minimum side yard variance to 33.3 feet and a total side yard variance to 68.4 feet for proposed attached garage addition, a rear yard setback variance to 34.5 feet for proposed pool patio, and a lot coverage variance to 17.4% in order to permit the proposed improvements. The premise is known as **3 Fair Oaks Lane, STCM# 902-6-1-14**. Attorney Kittric Motz, Architect Sal Iannone, and applicants Robert & Susanna Jonke were all present on the call. Kittric Motz reviewed the requested variances. She explained that this is an undersized lot in the A8 Zoning. Mr. & Mrs. Jonke are year round residents and hope to be able to construct the garage. The variance that they are currently asking for is a lesser amount than what they would have to ask for if they built a detached garage. Mrs. Motz asked if the Board had any questions. Mr. Treuhold expressed that the Board had concerns about the amount of the variance requested for lot coverage. Mrs. Motz said she would consult with her clients to reduce the lot coverage request. She asked if the matter could be adjourned until the July meeting. Mr. Treuhold asked for a motion to adjourn this matter until the July meeting.

MR. MOTT MADE A MOTION TO ADJOURN THIS MATTER UNTIL THE JULY 18, 2020 MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4) The next item on the agenda is the application from **David Marr** for variances in order to permit elevating an existing house (labeled 2 story frame house & garage on survey) by 6.9 feet at its existing location on property containing three dwellings, including a variance to alter a nonconforming principal building used for a nonconforming use, a rear yard/water setback variance to 19.6 feet for house and if necessary to 16.8 feet for proposed stairway, a side yard variance to 2.4 feet and a height variance within required yards to elevation 33.7. The premise is known as **61 Dune Road, SCTM# 902-13-1-12**. Attorney Kittric Motz and applicant David Marr were present for the phone call. Neighbor Gregory Hoogkamp and Sandy Carbone were also in attendance. Kittric Motz reviewed the application. She explained that Mr. Marr would like to elevate the house in place to make it FEMA compliant and to prevent flooding. They are intending to keep the existing septic system. Mr. Treuhold inquired about the current use of the three houses on the property. Mr. Marr replied that he lives in the house closest to the Canal, he rents one house and a friend stays in the third house. Mr. Treuhold asked about the future intent with respect to the other houses. Mr. Marr replied that he would like to elevate the other two houses as well and make them FEMA compliant, possibly relocating the houses to make them more compliant to set backs. Mr. Treuhold said that the Board has concerns about not having all the information about the plans for the property as a whole. Mrs. Motz said that they are just addressing the one house at this time based on the strong language of the 2014 ZBA decision. Mrs. Motz suggested the possibility of adjourning this application and coming up with an alternate that could be considered by the Board. If the Board did not want to approve the

alternate application, they could go back to the original proposal. Richard DePetris agreed that this would be a good idea. Mr. Marr explained that he does not have any immediate plans to lift or move the other houses, but would be open to an alternate proposal in order to make the property more compliant and address his neighbor's concerns. Mr. Hoogkamp would like to see another proposal to make this property more compliant. Mr. Treuhold said the Board would like to see the parallel proposal addressing the property as a whole. Mrs. Motz explained that she is not sure that the alternate proposal could be completed by the July meeting, but asked if the application could be adjourned until then, and further if necessary. Mr. Marr noted that adjourning the matter for even a month jeopardizes his chance to do this project this season, and puts the property at further risk for flooding but he is willing to do what he has to do to make the property as conforming as possible. Mr. Hoogkamp also noted that he supports Mr. Marr and hopes they can move forward. Mr. Treuhold asked for a motion to adjourn this application until at least the July meeting, longer if needed.

MR. PEIFFER MADE A MOTION TO ADJOURN THIS APPLICATION. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) The last application on the agenda is from **The Quogue Club LLC**. The applicant is requesting consent to allow outdoor dining during the remainder of 2020, as seasonally appropriate, due to the conditions arising out of the COVID 19 pandemic. The premise is known as **47 Quogue Street, SCTM# 902-7-3-17**. Attorney Kittric Motz was present for the applicant. Mr. Treuhold began by saying he will be recusing himself from this application due to his affiliation with The Quogue Club, and has asked Mr. Mott to Chair this section of the meeting. Pamela Chepiga is recusing herself as well as she is also an active member of The Quogue Club. This application will be decided by Mr. Mott, Mr. Peiffer and Mr. Ryan. Mr. Mott questioned why this was before the Board, as he felt the restrictions on this property were permanent. Mrs. Motz presented that the reason that they are before the Board is due to a declaration on this property that was made in January of 1981. The declaration was a result of a lawsuit, and stipulated that there would not be outdoor music or entertainment allowed. In addition, it stipulated that no outdoor dining would be allowed without consent from the Zoning Board. Mrs. Motz interprets this to mean that that permission can be sought for outdoor dining, but not for music or entertainment. The Quogue Club was created primarily by Quogue residents and have proven to be good citizens over the past several years. Because of the COVID 19 pandemic restrictions presently in place, only outdoor dining is allowed at this time. When Quogue moves into the next phase, indoor dining will be allowed, but restricted to 50% of the maximum capacity. This next phase possibly will happen next week. The maximum occupancy for this building is 138. Based on the plan submitted to the Dept. of Health and the Fire Marshall, the maximum number allowed for indoor dining will be 62. Mrs. Motz feels that based on the progression that NYS has put forth: from total shutdown, to outdoor dining, to partial capacity,

shows that outdoor dining is most likely safer than indoor. The Quogue Club has an outdoor patio surrounded on three sides by buildings. The proposal today is to allow six tables of four on the back patio, and four tables of four on the front porch. Mrs. Motz reviewed the following restrictions that will be put into place:

- Reservations only, no walk ins allowed.
- Seatings would be for 90 minutes, with 15 minutes in between to sanitize.
- Breakfast would only be for hotel guests, and not open to general members.
- Lunch would not be served.
- No additional outdoor lighting will be added, no outdoor music or events.
- No smoking will be allowed anywhere on the property.
- No reservations accepted after 8pm, meaning the area should be cleared by 9:30pm.
- No outdoor bar service after last seating.

Mr. Mott asked if this request is for the current season only. Mrs. Motz responded that yes, this is for this season only, and if the virus restrictions are still in place next season, they will have to come back to the Zoning Board to seek any additional permission. She noted that they are not asking for a permanent change. They are asking for this consent due to the COVID 19 hardship. Mr. Mott asked why this was not directed to the Trustees for consent. Mrs. Mott replied that the declaration stipulates that consent must be granted by the Zoning Board of Appeals. Mrs. Mott noted that if they wanted to request to make a permanent change they would have to go before the Trustees as well. Mrs. Motz explained that the previous application that had been before the ZBA at the time The Quogue Club was being rebuilt had been withdrawn, not rejected. Mrs. Motz said that outdoor socializing and drinking is not prohibited, only outdoor dining. Mr. Mott asked for comments from the public. Chester Murray, secretary of the Board of The Quogue Club asked to speak. He stated that The Quogue Club had been rebuilt in 2012, and is owned and operated mainly by Quogue residents, who care very deeply about the community. There are currently almost 400 members. Mr. Murray said that back in 1975 the property was operated as a discotheque called Pascal Pascal. He explained that the use of this property at that time was loud and disrespectful to the neighbors. In 1981, Susan McAllister purchased the property. Mr. Murray explained that according to her son, David Marr, Mrs. McAllister felt that Pascal Pascal was not in keeping with the neighborhood. Covenants were put in place to prevent against this happening in the future, but Mr. Marr feels that his mother left the door open with regard to outdoor dining. Mr. Murray said Mrs. McAllister felt that outdoor dining could work with the right owners, and she had a lot of respect for the Zoning Board of Appeals and that is why she left the decision up to them. Mr. Murray also feels most people will only be comfortable eating outside due to the ongoing pandemic. He assured the Board that if this permission is granted, the utmost respect will be given to the neighbors. Next, Jim Tolan asked to be heard. Mr. Mott said that Board has received his letters. Mr. Tolan asked that the concept of jurisdiction be clarified.

He said that the settlement states that any violation of this declaration shall be considered a violation of the Zoning Ordinance of the Village of Quogue. He also questioned the concept that outdoor drinking and dining had been previously allowed on this property. Mr. Tolan said he has researched this matter and has not found any evidence to support this. Mr. Tolan also commented on the notion of the public policy argument that he spoke of in his letter. Mr. Tolan said that public policy cannot override the Zoning Laws. Mr. Tolan questioned the idea that this easing of restriction would only be lasting for the season. He feels that once outdoor dining is allowed, The Quogue Club will be coming back asking for more. Mr. Tolan also questioned the idea that not granting the requested consent would affect the financial stability of The Quogue Club. Kittric Motz replied that they are not basing this request on financial hardship, they are basing it on public safety. Mr. Tolan thought all the diners could be accommodated with smaller staggered indoor seatings, and not need to have outdoor dining at all. Mr. Tolan feels that to add outdoor dining will intensify the use and change the character of the club. Mayor Peter Sartorius spoke next. Mr. Sartorius said that the jurisdiction comes from the stipulation which refers to the Board of Appeals. If this were to have required a variance, there would not have been a need to put in a contractual obligation to get the approval of the Board of Appeals. This would be permission under a contractual provision. Mr. Sartorius felt that the neighbor's concerns were relevant, but he did not believe that outdoor dining would have an adverse effect on them. Mr. Sartorius said the neighbors are far enough away and there are barriers between them and the patio. Mr. Sartorius said that he agrees with Mrs. Motz's argument. Mr. Tolan was concerned that once this is granted, it will be too late to do anything if there are adverse effects. Next, Roger Moley spoke. He wanted to note that there is currently take out service available, and that there is not any bar service on the back patio. He said that perhaps people bring a drink and sit outside, but there is not service outside. Mr. Moley felt there was enough space inside for the diners could spread out in the different rooms. Mr. Moley said that all six of the surrounding neighbors are opposed to outdoor dining, and have written letters. Mr. Moley feels that The Quogue Club is trying to take advantage of the virus to obtain permission for outdoor dining. He is also concerned about the end date of outdoor dining. Mr. Moley also stated that he felt that the patio was not really a healthy option to eating outdoors. Next, Clarke Lewis spoke. He lives at 5 Quogo Neck Lane, and is a member of The Quogue Club. He explained that there are issues, such as: garbage dumping noises and delivery truck problems, that the neighbors currently endure, but do not make issue of. Mr. Clarke feels that outdoor dining is not something that the neighbors want to tolerate. Mr. Mott asked Mrs. Motz to review the jurisdictional aspect of this request. Mrs. Motz responded that the declaration that arose out of a lawsuit between the Village and the former owners of the Inn at Quogue designating the Board of Appeals to mediate any requests for outdoor dining. Mrs. Motz feels that the crisis of COVID 19 shows hardship and practical difficulty. They are not trying to provide the luxury of outdoor dining, they are trying to provide a safe option for patrons. She pointed out that most of the neighbors bought property next to a property with a nonconforming use. Mr. Lewis felt they purchased their property assuming there wouldn't be outdoor dining. Mrs. Motz felt the possibility of outdoor dining was left open according to the agreement. At this time, Mr. Mott said that the Board and Rick DePetris will exit the call to go into executive session to ask about legal issues.

When they all returned to the call from executive session, Mr. Mott asked for a motion to approve the following consent as worded by Village Attorney Richard DePetris:

WE GRANT CONSENT TO ALLOW THE PROPOSED OUTDOOR DINING, DUE TO THE COVID-19 SITUATION, SUBJECT TO A CONDITION THAT OUTDOOR DINING SHALL TERMINATE AT 7:30 PM EACH NIGHT (ALL PERSONS ENGAGED IN OUTDOOR DINING SHALL REMOVE THEMSELVES FROM THE TABLES BY 7:30 PM), AND A CONDITION THAT THIS CONSENT SHALL TERMINATE AND EXPIRE ON LABOR DAY 2020, AND THAT OUTDOOR DINING WILL NOT BE RESURRECTED THEREAFTER WITHOUT FURTHER APPROVAL AND CONSENT OF THE ZONING BOARD.

MR. PEIFFER MADE A MOTION TO APPROVE THE CONSENT. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

MR. MOTT ADJOURNED THE MEETING.