

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY JANUARY 20, 2021
3:00 P.M.**

Present: Chairperson Pamela Chepiga, Brendan Ryan, Bruce Peiffer, Geoff Judge, Ed Tolley, Village Building Inspector William Nowak, and Village Attorney Wayne Bruyn

In accordance with the Governor's Executive Order 202.1 this meeting was held via zoom videoconference.

1) Ms. Chepiga opened the meeting with a roll call, and then asked for a motion to approve the minutes of the December 16, 2020 meeting.

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE DECEMBER 16, 2020 MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first item on the agenda is an application from **Daniel Perkins and Leigh M. Harlan at 44 Boxtree Road SCTM# 902-4-2-52** for: variance from the provisions of §196-22 A & B in order to permit the maintenance of solid wood fences exceeding 4' in height and less than 40% visibility in the northerly and southerly side yards; and all other necessary relief on premises located on the easterly side of Boxtree Road, approximately 1,041; northeasterly of Quogue - Riverhead Road (CR 104) in the A-3 Residence District.

Attorney Robert Kelly was on the teleconference for the applicants. Mr. Kelly reviewed the application. Mr. Kelly explained that the requested variance is for the fence that runs from the house to the side property lines, and the entire rear yard is fenced in for the pool enclosure. The three sides of the fence that face the neighbor's properties are all four foot chain link, and are in compliance. The part of the fence that runs from the house toward the sidelines is a solid wood fence, six feet high at its highest point. This exceeds the height allowable for fences that are inside the required yard. Mr. Kelly noted that the fence height would be permitted if it was not in the required part of the yard. Mr. Kelly explained that this fence was on the property when the pool was built in 1984, when the house addition was built in 2004, and when an updated Certificate of Occupancy was issued in 2014, when his client purchased the home. In 2020, the pool was rebuilt, and the wood fence was replaced with a custom wood white fence. Mr. Kelly noted that there are pictures of the old fence in the application package. Building Inspector William Nowak asked the owners to apply for a variance from the ZBA, as the fence was not noted on any of the prior Certificates of Occupancy. Mr. Kelly found it hard to believe that any Certificates of Occupancy would have been issued without anyone noticing the fence, as it would be a requirement for the pool. Mr. Kelly explained that while the fence was not in an aerial view from 2004, it was there

in prior photos and aerials. Mr. Kelly believes that in 2004 the addition was done and the fence was temporarily taken down, and then put back up. Mr. Kelly explained that as the fence has been there for over thirty years, it would not cause any change to the neighborhood. Mr. Kelly also noted that the six foot fence is shown on the 2014 survey that was submitted for the updated Certificate of Occupancy. Mr. Kelly said that the neighbor to the south has a six foot wooden fence to the property line where his client's fence is, and on the north side, the neighbor has a shed. Mr. Kelly did not feel that the fence has any negative effect on the neighbor's properties. Ms. Chepiga asked if there was documentation about the 2004 removal of the fence being temporary. Mr. Kelly explained that the fence is in the Town aerials before and after 2004, and the 2004 aerial shows the dirt yard, as the house addition was in progress. He also noted that the fence was on the 2014 survey, and he was sure the Building Inspector would have noticed if there was no pool fence. Mr. Peiffer asked if there is any proof that the fence has always been six foot? Mr. Kelly said that he submitted photos of the fence from 2014, in the application packet. Mr. Peiffer asked what is the primary purpose of the fence? Mr. Kelly responded that it acts as the pool enclosure, provides privacy, and contains the children and dogs. Mr. Peiffer asked if this could be done in another way that was compliant, such as a four foot fence and plantings for privacy. Mr. Kelly said that his client went with what was already on the property. Mr. Peiffer said that the original natural color of the fence may have blended with property better than the fence as it is now, as a six foot white wall visible from the road. Mr. Kelly noted that the height limit is only in the required yard, and there is no requirement on the color of the fence. Mr. Peiffer expressed his concerns about this fence setting a precedent. Mr. Kelly noted that this fence has been there since 1984 and three Certificate of Occupancies. The owner of 37 Arbutus, Miles Wixon, spoke next. Mr. Wixon asked if the fence would be up against his property. Mr. Kelly explained that the fence is already there, and the fence along 37 Arbutus property line is a four foot chain link, and would not change. Mr. Wixon asked if any landscaping would be going in along his property line. Mr. Kelly responded that he did not know. Mr. Ryan asked if the fence is "grandfathered". Mr. Kelly said the fence was there since 1984 and that he would have been allowed to paint his fence white, but this is not the exact fence that had always been there. Ms. Chepiga asked when the fence was changed. Mr. Kelly responded that it was done last winter. Ms. Chepiga asked if they received a building permit for the fence. Mr. Kelly said that they did not, as his client did not realize he had to. Mr. Bruyn asked if Mr. Nowak could speak about the chain of evidence of the fence. Mr. Nowak noted that the fence is not in the 2004 and 2006 Google Earth images. Mr. Kelly said that the fence is in the 2008 and forward years GIS aerial, and also in 2001, and before that the aerial views are too blurry. Ms. Chepiga asked if this matter could be adjourned, and the aerials could be submitted for the Board to review. Mr. Kelly said he will put something together. Ms. Motz asked if the fence predates the 1984 fence requirements. Mr. Bruyn asked Mr. Kelly to research the fence codes from this time and see if it applies. Ms. Chepiga asked for a motion to adjourn this application until the next meeting.

MR. JUDGE MADE A MOTION TO ADJOURN THIS APPLICATION UNTIL THE NEXT MEETING. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

3) The next matter on the agenda is the application from **Baycrest Properties, LLC at 23 Dune Road**. Attorney Kittric Motz explained that they are still waiting for confirmation from the DEC. Chuck Bowman has applied to the DEC to confirm that no building permit is required from them for the shed, and they are waiting for a response. Ms. Motz asked that this application be adjourned until the February meeting. Ms. Chepiga asked for a motion to adjourn.

MR. PEIFFER MADE A MOTION TO ADJOURN THIS APPLICATION UNTIL THE NEXT MEETING. MR. RYAN SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

4) The next matter on the agenda is the application from **David Marr at 61 Dune Road**. Attorney Kittric Motz explained that they have engaged a new surveyor to work on the new application. Ms. Motz asked to have this matter adjourned until the March meeting. Ms. Chepiga asked for a motion to adjourn.

MR. TOLLEY MADE A MOTION TO ADJOURN THIS APPLICATION UNTIL THE NEXT MEETING. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

5) The last matter on the agenda is from **William Cataldo and Nancy Cohen at 4 Post Lane**. Ms. Chepiga once again recused herself from this matter and Geoff Judge will chair this application. Mr. Vero was not present on the teleconference call. Mr. Judge said that a decision has been drafted which denies the requested variance, and asked for a motion to approve the decision.

MR. PEIFFER MADE A MOTION TO APPROVE THE DECISION WHICH DENIES THE REQUESTED VARIANCES. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

6) Ms. Chepiga set the date of the next meeting to **Wednesday February 17, 2021 at 3pm**. As there was no more business, Ms. Chepiga asked for a motion to adjourn the meeting.

MR. JUDGE MADE A MOTION TO ADJOURN THE MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

The meeting was adjourned.