

**VILLAGE OF QUOGUE
ZONING BOARD OF APPEALS
WEDNESDAY APRIL 21, 2021
3:00 P.M.**

Present: Chairperson Pamela Chepiga, Brendan Ryan, Bruce Peiffer, Geoff Judge, Ed Tolley, George Sard (alternate member), 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 March 24, 2021 meeting. Ms. Chepiga welcomed newly appointed alternate member George Sard, and then set the date of the next meeting to **Wednesday, May 19, 2021 at 3pm.**

MR. PEIFFER MADE A MOTION TO APPROVE THE MINUTES OF THE MARCH 24, 2021 MEETING. MR. JUDGE SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) The first item on the agenda was an application from **Steven Wechsler & Suzanne Mackenzie at 6 Winnebogue Lane (SCTM# 902-7-1-55.6) for:** a variance from the provisions of §196-12 A (Table of Dimensional Regulations) in order to permit an enclosed hallway to be connected to an existing garage thereby permitting a second floor habitable addition to the garage with a total side yard setback of 73.8' where 80' is required; and all other necessary relief on a 102,956 square foot parcel of land located on the westerly side of Winnebogue Lane in the A-8 Residence District.

Linda Ruisi of Definitive Design was present on the teleconference for the applicants. Ms. Ruisi reviewed the application and explained that the addition will be used as an exercise space, and will be accessed by the proposed breeze way. The breeze way will be 13x4 or 52 sq. ft., and the garage will be 650 sq. ft. with 10 ft. ceilings. The only way to access this room is from the inside of the house. Ms. Chepiga asked Ms. Ruisi if she had received any feedback from any neighbors. Ms. Ruisi said she has not heard from any of the neighbors. Ms. Chepiga asked if anyone had any questions, and there were none. Ms. Chepiga asked for a motion to approve the requested variance.

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

3) The next item on the agenda was an application from **William Beatty & Sally Beatty at 11 Beach Lane SCTM# 902-7-3-41 for:** variances from the provisions of (1) §196-7.1 B in order to permit the reconstruction of a nonconforming garage in the same location; (2) §196-12 A (Table of Dimensional Regulations) to permit the reconstructed garage to have a side yard setback of 14.6' where 25' is required; (3) §196-48A to permit the reconstructed garage to have second story with a height of 20 feet where 16' is required; and all other necessary relief on a nonconforming 43,588 square foot parcel of land located on the westerly side of Beach Lane, approximately 262' north of Quaquanantuck Lane, in the A-3 Residence District.

Mr. Peiffer said he will be recusing himself from this application. Alternate member Mr. Sard will be acting on this application.

Applicants William and Sally Beatty were present on the teleconference call. Ms. Beatty reviewed the application. She explained that they would like to replace the old garage, keeping the same footprint, with a peaked roof to mimic the look of the main house. The garage roof they are proposing would be slightly higher than the current roof. Mr. Tolley explained that the garage is currently a pre-existing nonconforming structure because the setback is at 15 ft. where 25 ft. is required. Mr. Tolley noted that granting a variance for the garage with a 20 ft. height would increase the nonconformity of this structure. Mr. Tolley said that the Board understands the need to rebuild the garage in the current footprint, but they are concerned about the height increase. Mr. Tolley said that if the applicant felt the need to keep the height at 20 ft., perhaps they should look to moving the garage to conform with setback requirements, and would therefore not need a variance. Mr. Bruyn inquired if the design of the garage was supposed to be a two story structure. Ms. Beatty said that the stairway is only going to be used to access the storage area along the wall of the roof rafters. She confirmed that there would be no second floor. Ms. Beatty explained that the closest neighbor, Mr. Hagan, has been made aware of the plans and has no objections. She also noted that Chester Murray, the neighbor across the street, also is in support of the application. Mr. Tolley asked if the garage could be redesigned so the height remains the same as the current structure. Ms. Chepiga agreed that the height increase request would set a precedent in the Village that the Board is not comfortable with. She suggested that Ms. Beatty adjourn to consider the height issue and come back to the next meeting. Ms. Beatty agreed to the adjournment. Ms. Chepiga asked for a motion.

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

4) The next item on the agenda was an application from **13 Willow Lane, LLC at 13 Willow Lane (SCTM# 902-7-2-42) for:** variances from the provisions of (1) §196-12 A(1) (Table of Dimensional Regulations) to permit the construction of a new dwelling with a front yard setback of 40' where 60' is required; (2) §196-12 A(1) to permit the construction of a new dwelling with rear covered porch with a rear yard setback of 47' where 70' is required; and all other necessary relief on a nonconforming 18,520 square foot parcel of land located on the northerly side of Willow Lane, approximately 372' east of Quogue Street (Main Street), in the A-8 Residence District.

Attorney Mr. Kelly was present on the teleconference for the applicants. Mr. Kelly reviewed the application. He explained that this is a non-conforming lot behind the Fire Department Parking Lot. The proposed house has a similar footprint to the existing house, but they would like to add a garage and pool which will meet the required setbacks. Lot coverage will also be conforming. The front and rear yard setbacks on this property overlap, which creates a negative building envelope. The current home has a front yard setback of 42 ft., where 60 ft. is required. The proposed house would have a 40 ft. front yard setback. The rear yard setback is currently 50.2 ft. where 70 ft. is required. The applicants are proposing a 50.5 ft. setback to the house, and a 45.5 ft. setback to the proposed covered porch. The height is designed to be 31 ft. above the finished first floor. Mr. Nowak has noted in his referral that because it is in the AE8 Flood Zone, the first floor would have to be at elevation 10 ft., and that would put the ridge at elevation 41 ft. The General Code allows for a height of 37 ft. tall house measured from the elevation of the crown of the road. That road elevation is at 7.8 ft., so 44.8 ft. would be allowed. They are proposing a height of 41 ft., roughly 4 ft under the requirement. There is a 16 ft. height limit in the required yard, which they will be needing a variance from. Mr. Kelly explained that most of the houses on Willow Lane are in similar situations with regard to setbacks. The three immediate neighbors to this property have structures within 5-7 ft. of the applicant's property line. Mr. Kelly noted that Mr. Nowak pointed out in his referral that this property is the last one in the A3 Zone as you head North. If the house had been included in the A5 Zone, they would be in compliance with almost all of the setbacks in that Zone. Mr. Kelly did not believe that the proposed variances would have any effect on the neighborhood. Ms. Chepiga asked if any members of the public had any questions. Ms. Calenda, owner of 11 Willow Lane, spoke next and asked for clarification of the setbacks required. Ms. Chepiga suggested this application be adjourned until later in the meeting, and that Ms. Fontana and Mr. Kelly meet for clarification and then come back to the meeting.

5) The next item on the agenda was an application from **Steven Salvatore & Patrizia Salvatore at 9 Lakewood Lane (SCTM# 902-4-3-14.13) for:** variances from the provisions of (1) §196-12 A(1) (Lot Coverage - Table of Dimensional Regulations) in order to permit an 246 square foot

home office addition to the dwelling where all improvements amount to a total lot coverage of 20.86% where 20% is permitted; and (2) interpretation whether the home office addition can be added/connected to the unhabitable garage portion of the dwelling; and all other necessary relief on a 43,500 square foot parcel of land located on the southwesterly side of Lakewood Lane, approximately 600' east of Box Tree Road, in the A-3 Residence District.

Attorney Kittric Motz was present on the teleconference for the applicants. Ms. Motz reviewed the application. She explained that additional lot coverage is proposed to allow for a home office addition, with access through the garage. Ms. Motz addressed the issue of the basement alternative that Mr. Nowak proposed in his review. She did not feel it would be a suitable alternative as the owner is 6'4" and the basement has a 7 ft. ceiling with ductwork. Ms. Motz next addressed the issue of habitable space connectivity, which she says is not mentioned at all in the definition of a home office in the Village Code. She noted that the Code defines a home office as an office in a one family dwelling, which this is. The office will be connected through the garage which is climate controlled, which she feels meets the definition in the Code. No patients, staff or clients will be accessing this addition. Mr. Peiffer noted that this property was originally built at maximum lot coverage, which did not allow for any future expansion. Mr. Peiffer asked if something on the property could be removed to get the property more in compliance, maybe the shed or tennis court? Ms. Motz asked if the lot coverage could be brought back to 20.3% in some way, would that would be acceptable to the Board? Mr. Bruyn explained that the shed addition in 2015 caused the lot coverage to exceed 20%. Mr. Bruyn did not think that the Building Inspector knew that at the time. Mr. Bruyn also questioned the calculation of the room compared to the survey. Ms. Motz requested that this application be adjourned to the next meeting so she could consult with her clients on how to reduce the lot coverage. Ms. Chepiga asked for a motion.

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

6) The next item on the agenda was an application from **David Marr at 61 Beach Lane (SCTM# 902-13-1-12)** for: modification and/or extension of decision dated February 22, 2014 and variances from the provisions of (1) §196-3 and §196-7 in order to permit three nonconforming dwellings to be raised relocated and/or altered with installation of new windows, doors, exit stairs and decks; (2) §196-A (Table of Dimensional Regulations) to permit Building A to have a rear and water setback of 37' to the Quogue Canal for a new attached exit stairway and 39' for the raised dwelling where 50' is required; (3) §196-12 A (Table of Dimensional Regulations) to permit Building A to have a side yard setback of 7' where 25' is required; (4) §196-48A to permit Building A to have a height at an elevation of 33.7' where 21.3' is required; (5) §196-A (Table of

Dimensional Regulations) to permit Building C to have a front yard setback of 30' for a new attached exit stairway and 35' for the raised dwelling where 40' is required; (6) §196-22A & B for setback variances to permit a retaining wall in the required side yard that exceeds 2' and does not have 40% visibility; (7) all other necessary relief on a nonconforming 35,712 square foot parcel of land located on the northeasterly corner of Dune Road and Beach Lane (unopened) in the A-2 Residence District.

Attorney Kittric Motz and Applicant David Marr were present on the teleconference. Ms. Motz explained that her client has worked hard to try and make this property more conforming while trying to raise the structures out of the flood zone. Reviewing the property history, she noted that last year an application had been filed to lift only House A, which is Mr. Marr's primary residence. That application is currently in the holdover section of the agenda. Ms. Motz reviewed that back in 2014, a request was made to the ZBA to lift and relocate all of the houses and add some external decking. At that time, the ZBA denied the request. This property has three homes, which have COs and are legally allowed to be rented. Currently, House A is 3 ft. from the property line of the neighbor, Mr. Hoogkamp. This proposal will allow the house to be located further away from both the neighbor and the Canal, and out of flood prone area. House B would be raised and moved to a conforming location. House C would be raised and moved to a location that would be in conformance except for a small portion of the front porch. A new septic system will be added to service the entire property. Ms. Motz noted that the surrounding houses have been permitted to raise their homes. Ms. Motz also noted that the houses do not individually exceed GFA, and did not interpret that this rule would apply to a multi-dwelling property. Ms. Motz explained that the garages currently on the property would be modified to become strictly non-climate controlled storage space. Mr. Hoogkamp spoke next. He asked what would be on the west side of House A – would it be a rooftop area or a balcony? Mr. Marr explained that this area would not be visible from Mr. Hoogkamp's property. Mr. Marr and Ms. Motz reviewed other aspects of House A and the property in general. Mr. Tolley spoke next. He explained that he was concerned about there being three houses on the property and how close the houses are to the easterly neighbor. Ms. Motz explained that the location was chosen to be located further from the Canal and to leave room for the new Septic System. Mr. Marr reviewed the logistics of how they came to the proposed locations. Ms. Crynes, the neighbor to the south, asked if House A will be closer to Dune Rd. Ms. Motz explained that it will be moved farther from the Canal, and away from Dune Rd. Mr. Tolley asked about the use of the three houses. Mr. Marr explained that he is currently living in one of the houses, and legally renting the others. Mr. Ryan spoke next and felt that this proposal would be the best possible solution on this complicated property. Mr. Peiffer agreed. Mr. Bruyn suggested that this application be adjourned for a written decision at the next meeting. Ms. Chepiga closed the record for additional submittals and adjourned for written decision. Ms. Motz requested that the holdover application for 61 Dune Rd be adjourned until the next meeting pending decision on the current application on this property. Mr. Marr wanted to express his respect and appreciation for the ZBA and all they do to protect the Village. Ms. Chepiga asked for a motion.

MR. PEIFFER MADE A MOTION TO ADJOURN THESE APPLICATION TO THE NEXT MEETING. MR. TOLLEY SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

7) The Board then returned to application of **13 Willow Lane**. Mr. Kelly explained that he has conferred with Ms. Calenda. Ms. Calenda stated that she has no further questions regarding this application. Ms. Chepiga asked for a motion to approve this variance as requested.

MR. JUDGE MADE A MOTION TO APPROVE THE VARIANCE AS REQUESTED. MR. PEIFFER SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

8) The last item on the agenda was the holdover application of **37 Bay Road Inc. (Nick Messina) at 37 Bay Road (SCTM# 902-6-1-18.11) for:** an interpretation of the Building Inspector's determination and/or variances from the provisions of (1) §196-12A (Table of Dimensional Regulations) in order to permit an elevated catwalk/wetland access walkway extending over a portion of designated wetlands in the center of the property to access the property's frontage on Shinnecock Bay with a 70' setback from an unopened portion of a private road where 100' is required and a rear yard setback of 10' where 35' is required; (2) §196-13B(10) in order to permit an elevated catwalk/wetland access walkway extending over a portion of designated wetlands in the center of the property where said elevated catawalk/walkway does not directly connect to the bay; and all other necessary relief on premises located on the southerly side of Bay Road, approximately 2,623' easterly of Montauk Highway (SR 27) in the A-8 Residence District.

Ms. Chepiga noted that Mr. Ryan had to leave the meeting and George Sard will be acting on this application.

Attorney Heather Wright and Applicant Nick Messina were present on the teleconference. Ms. Wright reviewed the character of the neighborhood aspect of this application. She explained that a catwalk is a customary waterfront structure weather attached to a dock or not, and been approved many times in the Village. She listed and reviewed some neighboring properties that have catwalks that do not meet side yard setbacks. She noted that the catwalk at 5 Meadow Lane is not attached to a dock, and is used to get over wetlands, similar to what is proposed at 37 Bay Rd. Ms. Wright then reviewed Exhibit 5 of Mr. Bragman's submittal. She noted that the properties highlighted do not have catwalks because they are either subject to specific Covenants or do not have wetlands to cross over. She then reviewed the photos submitted by Mr. Bragman showing the stakeout of the catwalk. Ms. Wright explained that the DEC has approved the structure, and she does not believe that they would approve a structure that would have negative impact on the environment.

Attorney Mr. Bragman, who represents the neighbors Mr. & Mrs. Picheny and Mr. Beinhorn spoke next. He explained that although the DEC has granted permission, the Village does not have to defer the decision to them. He noted that the ZBA is advised to grant the least relief possible. Mr. Bragman said that the submittal to the DEC by the Applicant omitted any need for permitting that the Village would need to do. Mr. Bragman noted there are Covenants & Restrictions on this property that prohibit excavation, removal of vegetation, and removal of soil. He didn't feel that the catwalk could be built without doing just that. He also spoke of the language of the Easements of the other properties referred to by Ms. Wright. Mr. Bragman said that the photos he submitted of the stakeout of the catwalk do not account for the height once the railings are constructed. He showed photos that reviewed potential views from neighboring properties. Mr. Bragman does not feel that a walkway is necessary on this property, as it has not been inundated by flooding, and that a footpath would be more appropriate.

Ms. Wright spoke next. She showed a photo of the walkway on the Beinhorn's property. She noted that it did not look like it was being trimmed by hand, and that a footpath also has an environmental impact. Ms. Wright said that while the DEC and the Village have different jurisdictions, in this case they overlap, and the Village regularly relies on the decisions by the DEC. Ms. Wright explained that this property needs access to the water, and that a catwalk is the most practical and feasible way to do this. She feels that the 5 part test has been met on this application and should be granted.

Mr. Peiffer asked how they are currently accessing the water from this property. Ms. Wright said there is a temporary path there currently that was approved by the DEC. Mr. Peiffer wanted to know why they couldn't just use the current path permanently. Mr. Messina said that they are using the path now, but it is muddy and marshy. Mr. Peiffer asked if the catwalk could be located to a more conforming location. Mr. Messina said the location was chosen to minimize the amount of catwalk through the marsh. He explained that the current proposed location allows for 130ft length of catwalk as opposed to a more conforming location at 170ft length of catwalk. Mr. Peiffer asked if the DEC would be opposed to granting the permit for the longer catwalk in a more conforming location. Mr. Tolley said the Board is not comfortable with the catwalk being located 10 ft from the northerly property line. He asked if the catwalk could be located 35ft from the northerly property line, keep the requested variance from the unopened Bay Rd from the South, so that the catwalk goes down the middle of the property. Mr. Tolley said that he understands that the catwalk would have to be longer, and that the Applicant would have to go back to the DEC for approval. Ms. Wright expressed concern about going back to the DEC with an application that has more of an environmental impact than the current application, but will make the application. Ms. Wright asked if the neighbors would still be in objection to this new proposal. Mr. Bragman said he would have to consult with his clients before answering that question. Ms. Chepiga said the Board is trying to come to a reasonable constructive solution for all parties on this application. Mr. Peiffer suggested the Applicant consult with the DEC to see if they would be comfortable with this alternative proposal. He further suggested that if DEC is not comfortable with the exact specifications of this alternative proposal, could they advise the specifications that they would be comfortable with. Mr. Peiffer said there would be some leeway that the Board could work with. Mr. Judge said to ask the DEC how close to the 35 ft. property line would they be willing to grant. Mr. Bruyn suggested that this matter be adjourned for the Applicant to consult with the DEC. Ms. Chepiga asked for a motion to adjourn.

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

As there was no more business on the agenda Ms. Chepiga asked for a motion to adjourn the meeting.

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