

ZBA Minutes – January 24, 2019  
ZONING BOARD OF APPEALS  
TOWN OF RIVERHEAD  
SUFFOLK COUNTY  
RIVERHEAD, NEW YORK  
(631) 727-3200

These minutes are a summary of the January 24, 2019 Town of Riverhead Zoning Board of Appeals meeting held at the Town of Riverhead Town Hall, Riverhead, NY.

PRESENT:	ABSENT:
Otto Wittmeier	Frank Seabrook
Fred McLaughlin	Leroy Barnes
Lisa Worthington	
Dawn Thomas, Counsel	

**ADJOURNED**

1) Chairman McLaughlin announced the adjournment of Appeal No. 2018-054.

**Appeal No. 2018-054 – Joseph Calabrese – 28 Beach Road, Laurel – SCTM No. 600-71-2-16 – RB40 Zoning** - for variances and/or relief from Chapter 301 Section 15 A(1)(c) where shed (8.3 x 12.3) is 6.6 & 8.4 feet from property lines and minimum required is 10 feet; where attached outdoor shower is 5.67 feet from property line and minimum required is 10 feet; Section 15 A(1)(d) where shed under 144 SF is 0.9 & 1 feet from property lines and 0.58 feet from the (detached garage) cabana building and minimum required is 5 feet with 10 feet separation between buildings; Section 222 E where proposed rear yard setback is 37.83 feet and minimum required is 40 feet; and, where proposed additions increase gross floor area within the required rear yard, representing an increase in degree of nonconformity of a preexisting dwelling which is not permitted. ADJOURNED from 11/8/18, 1/10/19. Request further adjournment to 2/14/19

A motion was made by Mr. Wittmeier and seconded by Ms. Worthington that the appeal be adjourned to February 14, 2019. The motion carried by a roll call vote of all members present:

Mr. Barnes	ABSENT
Ms. Worthington	AYE
Mr. Seabrook	ABSENT
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

Mr. McLaughlin stated well, unfortunately, we are going to have to adjourn you folks, too (referring to Appeal 2019-003 as applicant did not have required proof of mailings or affidavit of posting.)

**Appeal No. 2019-003 – James LoScalzo – 22 Creek Road, Wading River – SCTM No. 600-29-1-4 – RB80 Zoning** - for variances and/or relief from Chapter 301 Section 222 E where proposed side yard is 14.4 feet and minimum required is 20 feet; and, Section 219-10 B where the proposed is an addition to a nonmovable structure within the Coastal Erosion Hazard Area which is not permitted.

A motion was made by Mr. Wittmeier and seconded by Ms. Worthington that the appeal be adjourned to February 14, 2019. The motion carried by a roll call vote of all members present:

Mr. Barnes	ABSENT
Mr. Seabrook	ABSENT
Ms. Worthington	AYE

Mr. Wittmeier            AYE  
Mr. McLaughlin        AYE

### PUBLIC HEARINGS

**1) Appeal No. 2019-002 – Claude Miceli – 99 Cliff Road East, Wading River – SCTM No. 600-27-3-25 – RB80 Zoning** - for variances and/or relief from Chapter 301 Section 29 A(1)(a) where accessory deck constructed in front yard is not permitted. ADJOURNED from 1/10/19

Claude Miceli of 99 Cliff Road East, Wading River, was sworn in by Mr. McLaughlin. Mr. Miceli stated what we would like to do is my wife and I would like to maintain our existing wood deck in the front of our property; we have done pretty much everything by code and so, from the electrical to all the work that we've done, and my house is pretty much set back. Mr. McLaughlin said we were there. Mr. Miceli asked you know the area? So, basically, what we would like to do is to keep our deck, and all our neighbors have decks in front; I didn't know that, you know, we don't...we haven't really had any construction done in all our life, so we're gonna retire and this will be our house, and so, we would like to, if you can give us the opportunity, a chance to keep the deck. Mr. Wittmeier asked there's really no setbacks, all you're asking for is an accessory deck which is in the front yard? Mr. Miceli replied, correct. Mr. Wittmeier added that's not permitted, so that's the variance you're asking for. Mr. McLaughlin stated okay, well, we don't see any of your neighbors screaming no, so... Mr. Miceli noted we had one neighbor here on the 10<sup>th</sup> that came here then. He pretty much supported what we've done, and you know...so what, you know, he's not here today because he lives pretty far in Queens, but... Mr. McLaughlin stated I don't think the board members have any problem with it, either. Mr. Miceli said I appreciate that. Mr. McLaughlin added we were there; we looked at it. Okay, let's have a reading.

A motion was made by Mr. Wittmeier and seconded by Ms. Worthington that the appeal be granted as sought. The motion carried by a roll call vote of all members present:

Mr. Barnes            ABSENT  
Mr. Seabrook        ABSENT  
Ms. Worthington    AYE  
Mr. Wittmeier        AYE  
Mr. McLaughlin     AYE

### DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-002

APPLICANT/PROPERTY OWNER: Claude Miceli, 15 Marlboro Lane, East Islip, NY 11730

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 29 A(1)(a) where accessory deck constructed in front yard is not permitted.

LOCATION: 99 Cliff Road East, Wading River

SCTM#: 600-27-3-25

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 0.14 acres or 6,098.4 sq. ft. Minimum lot area is 80,000 square feet; minimum lot width is 175 square feet; maximum impervious coverage is 15%; maximum height of residential buildings is 35 feet; minimum front yard depth is 60 feet; minimum either

side yard width is 30 feet; minimum both side yards, total width is 65 feet; minimum side yard abutting side street is 60 feet; minimum rear yard depth is 75 feet.

DATE OF HEARING: January 24, 2019

INSPECTION DATES: January 2, 3, & 7, 2019

SUFFOLK COUNTY PLANNING COMMISSION: Pursuant to the Suffolk County Administrative Code Sections A14-14 to 23 referral of this matter to the Suffolk County Department of Planning and Development was not required.

SEQRA: The Zoning Board of Appeals has visited the property under consideration and reviewed the application and determines that this review falls under Type II 617.5 c(12) and does not require any further action pursuant to SEQRA.

PLEASE TAKE NOTICE that at the public hearings of the Town of Riverhead Zoning Board of Appeals on the above referenced dates, the above referenced appeal was heard, evidence placed into the record and the application was duly considered. Based upon the foregoing, the Zoning Board of Appeals takes the following action:

HISTORY/PROPERTY FACTS

1. A denial letter was sent from the Building Department on October 9, 2018 and an application was made to the Zoning Board of Appeals on December 6, 2018.
2. After reviewing the application, the history of the property and information gathered at the public hearing pursuant to the criteria set forth in Town Law 267-b this Board makes the following findings of fact:
  - a. The property is presently improved with the following structure(s):
    - i. One-story dwelling with basement and concrete stoop
3. Public hearing was originally scheduled for January 10, 2019; however, property was not posted accordingly. Hearing was adjourned for noticing and then heard on January 24, 2019 when required photos and accompanying documents were received.

FINDINGS: The evidence in the record establishes that weighing the benefit of granting the area variance request against the detriment of granting the area variance request to the health, safety and welfare of the community and finds as follows:

1. The variance sought would not produce an impact on adjacent properties or the neighborhood as dwelling is set back further than most neighboring dwellings. Existing deck does not extend beyond setback of neighboring dwellings.
2. The requested variance is not substantial because adjoining properties have similar front yard decks.
3. The benefit sought by the applicant cannot be achieved by some alternative means because side and rear yards are too small to construct a deck based upon location dwelling was originally built.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as deck was constructed over existing driveway; there was no environmental impact or disturbance.
5. The alleged difficulty that the property owner is experiencing was self-created; however, that fact does not prohibit this board from granting the relief sought.

The motion was made by Mr. Wittmeier and seconded by Ms. Worthington, that the aforementioned determination be approved:

**THE VOTE**

**MR. SEABROOK: ABSENT MR. BARNES: ABSENT**  
**MRS. WORTHINGTON: AYE MR. WITTMEIER: AYE**  
**MR. MCLAUGHLIN: AYE**

**This determination X was    was not  
therefore duly adopted**

Based upon the foregoing, the following area variance is **GRANTED** and, if granted, is subject to the following conditions which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

**NO CONDITIONS**

**Minutes of January 10, 2019** – A motion was made by Mr. Wittmeier and seconded by Ms. Worthington that the minutes be adopted. The motion was approved by a roll call vote of all members present:

Mr. Barnes	ABSENT
Mr. Seabrook	ABSENT
Ms. Worthington	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

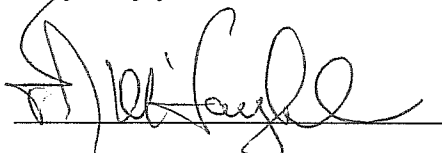
**NEXT MEETING DATE** – February 14, 2019 at 6:30 PM

A motion to close the meeting was made by Mr. Wittmeier and seconded by Ms. Worthington. The meeting was closed by a roll call vote of all members present:

Mr. Barnes	ABSENT
Mr. Seabrook	ABSENT
Ms. Worthington	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

Approved and Dated: February 14, 2019

Very truly yours,



Fred McLaughlin, Chairman  
ZONING BOARD OF APPEALS