

ZBA Minutes – April 25, 2019  
ZONING BOARD OF APPEALS  
TOWN OF RIVERHEAD  
SUFFOLK COUNTY  
RIVERHEAD, NEW YORK  
(631) 727-3200

These minutes are a summary of the April 25, 2019 Town of Riverhead Zoning Board of Appeals meeting held at the Town of Riverhead Town Hall, Riverhead, NY.

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

### REQUEST FOR EXTENSION

**1. Appeal No. 2015-034 – Gendot Associates – Middle Road, Riverhead – SCTM No. 600-82-4-221.12 – RC Zoning** - for variance to and/or relief from the provisions of Chapter 108, Section 108-118, requesting permission to construct a 16 unit retirement condominium complex on a parcel containing 3.6732 acres instead of the minimum lot area of 15 acres, and providing for impervious surface of 38.5% instead of the permitted 15%. *Third one year extension requested, thus expiring May 12, 2020.*

A motion was made by Mr. Wittmeier and seconded by Mr. Barnes that the appeal be granted a one year extension, thus expiring May 12, 2020. The motion carried by a roll call vote of all members present:

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

### PUBLIC HEARINGS

**1. Appeal No. 2019-010 – Patricia Illana – 166 Cliff Road West, Wading River – SCTM No. 600-26-1-43 – RB80 Zoning** - for variances and/or relief from Chapter 301 Section 29 A(1)(d) where shed under 144 sf (9' x 10') is 3.1 feet from property line and minimum required is 10 feet; Section 34 where proposed building area is 22% of the lot area and maximum permitted is 20%; and, where proposed rear yard setback is 25.8 feet and minimum required is 60 feet. ADJOURNED from 4/11/19

Diana LaSpisa, Morano Expediting Services, 4 Hamilton Court, Coram, NY 11727. Ms. LaSpisa stated, we were here before the board on April 11<sup>th</sup> with...the neighbors behind the subject property did express some concern regarding their visibility to the sun room. I did visit the site; I'm not sure if the board had gone out. Mr. McLaughlin interjected, oh, yes; I was there. Ms. LaSpisa replied, oh, good. I have three pictures. I wrote on the back where the pictures were taken from, which way they're facing. Two are facing the neighbor's house. I kind of walked through the vegetated area. I can't go onto their property, although I think I may have been. Mr. McLaughlin asked Ms. LaSpisa to step up and see the photos sent from Mr. Wong. Ms. LaSpisa answered, he cc'd me on the email, so I actually did see those pictures. It's not visible. Mr. Seabrook stated, it's heavily vegetated, you were being kind in saying "vegetated." Ms. LaSpisa replied, yes, and what we're looking to do is it's a sunroom; it's not a second story. I was kind of hoping the board agreed with us. Mr. McLaughlin answered, yes. Ms. LaSpisa continued, so, my client has no intention of doing planting back there. Mr. McLaughlin added, and we don't feel there's a reason to. Ms. LaSpisa noted, okay, because our property is higher; their property is lower elevation. So, we can actually see more of their house. They can only see roof. Mr. McLaughlin added,

with the side of the building with no windows. Ms. LaSpisa agreed, yes, yes. I know. Mr. McLaughlin asked if there was anyone else to be heard on the matter.

Mr. Barnes stated, it was mentioned at the last meeting that a suggestion of plantings could be worked out. Were they unreasonable when you spoke with them? Ms. LaSpisa answered, the homeowner? She's not unreasonable, but to ask somebody...in their request, because he did cc me on the email...he's requesting five six-foot arborvitaes. Those are \$200 each; I googled it. It's not, I mean, we see more of their house. The sun room actually sits lower than the roofline on the house as it is, and it's not that the neighbor or my client is looking to create a problem, but it's also asking...Mr. Barnes stated, I don't think that's being unreasonable. I just thought we sent you saying, "see if you can work it out." Ms. LaSpisa answered, I did; I did, and if the board agreed and felt that it really was visible, then, of course my client would do that, but I really don't, me personally, it sounds like other people, I don't think it's necessary. Mr. McLaughlin stated, I think it's overkill the way it is. Ms. LaSpisa added, and the house is also, you had mentioned...I heard you guys talking about the distance...so, his survey's not to scale, but the back is pretty boxed. What I did was, I took the two dimensions off the back, it was 225.33 feet, plus then there's like a 40 foot. That would make the whole width of their lot 265.33 which would mean if you minus the one side yard setback, then the length of the house...they're 124 feet off of the side property line. He also mentioned in his email something about planting trees. He bought his house in 2014. I looked on the county's website. I don't see any trees planted that are three years old; those trees that are planted, they've been there for many years. I see low-lying shrubs. If it's a big concern...Mr. Seabrook stated, there is 8-10 feet of greenery in between the property lines. Ms. LaSpisa added, more. Mr. Barnes stated, we were there this morning. We didn't see anything. It's twice we have been there, and we wanted to make sure we looked at the vegetation, but I thought something was going to be worked out, but... Ms. LaSpisa stated, well, I did discuss it with the homeowner because if that was something that would make the board feel comfortable, to act favorably, then she would have agreed to it. Mr. Barnes replied, okay. Mr. McLaughlin stated, I think it's overkill; I think we're fine. Mr. Wittmeier added, also, you don't mind if we condition the variance; we have an 8 x 12 shed that's across the property line. Ms. LaSpisa responded, she's removing that. You can put that condition on there, and that'll have to be removed prior to the C/O issued. Mr. Wittmeier replied, thank you. Mr. McLaughlin asked if anyone else was to be heard on the matter; there was no one.

A motion was made by Mr. Seabrook and seconded by Mr. Wittmeier that the appeal be granted with the condition that shed over property line be removed. The motion carried by a roll call vote of all members present:

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

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-010

APPLICANT/PROPERTY OWNER: Patricia Illana, 166 Cliff Rd West, Wading River 11792

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 29 A(1)(d) where shed under 144 sf (9' x 10') is 3.1 feet from property line and minimum required is 10 feet; Section 34 where proposed building area is 22% of the lot area and maximum permitted is 20%; and, where proposed rear yard setback is 25.8 feet and minimum required is 60 feet.

LOCATION: 166 Cliff Road West, Wading River 11792

SCTM#: 600-26-1-43

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 10,000 sq. ft. or 0.229 acres. 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: 4/11/19, 4/25/19

INSPECTION DATES: 4/6/19, 4/9/19, 4/11/19

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 February 13, 2019 and an application was made to the Zoning Board of Appeals on March 6, 2019.
2. Dwelling received Certificate of Occupancy on June 7, 1996 with Zoning Board relief, Appeal #95-092, for front, rear and side yard setbacks, vesting zoning as Residence A.
3. 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 frame dwelling with covered porch
    - ii. Metal shed (10' x 9')
    - iii. Frame shed – over property line (8' x 12')

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 the proposed sunroom and existing shed are screened from the neighboring properties.
2. The requested variance is not substantial because the sunroom will be used seasonally and is unheated.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the existing dwelling is already nonconforming; therefore, any modifications will require relief.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the proposed location of the addition does not require clearing or excavation.
5. The alleged difficulty that the property owner is experiencing was not self-created as the lot is undersized; any improvements or additions would require additional relief from this board.

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

**THE VOTE**

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

**1. 8' x 12' frame shed partially located over property line must be removed prior to issuance of C/O**

If this is an approval, it is necessary that you take this duplicate original letter with you to the Building Department when applying for a Building Permit. Pursuant to Riverhead Town Code §105-8(D), any determination made by the Zoning Board of Appeals shall not become effective unless a permit is obtained in accordance herewith within one year of the date of such determination, unless the Zoning Board of Appeals has stipulated a different period of time in its determination. The Zoning Board of Appeals shall have the power, by resolution, to extend its determination for a period of one year upon written notice from the applicant or his agent of the desire to do so. No more than three such extensions shall be allowed. The provisions of this subsection shall not apply in cases of interpretation of variances for the use of land unless the Zoning Board of Appeals has indicated a time period in the determination. Failure to comply therewith will render this approval null and void. In the event that this is an approval subject to conditions, the approval shall not be deemed effective until such time that the foregoing conditions are met.

**2. Appeal No. 2019-011 – SIRS Ventures – 1074 Pulaski Street, Riverhead – SCTM No. 600-125-1-11 – Ind C Zoning - for variances and/or relief from Chapter 301 Section 123 A where the proposed impervious surface is 68% of the lot area (amended from 66%) and maximum permitted is 60%. ADJOURNED from 4/11/19**

Mr. Barnes asked Ms. Collins if any comments were filed since the last hearing. Ms. Collins replied, no comments filed. Mr. McLaughlin asked, is there anyone here on this matter? No one came forward.

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

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

**DETERMINATION OF THE ZONING BOARD OF APPEALS**

**APPEAL NO: 2019-011**

APPLICANT/PROPERTY OWNER: SIRS Ventures LLC, c/o Richard Israel, 889 Harrison Ave, 2<sup>nd</sup> Floor, Riverhead 11901

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 123 A where the proposed impervious surface is 68% of the lot area (amended from 66%) and maximum permitted is 60%.

LOCATION: 1074 Pulaski Street, Riverhead 11901

SCTM#: 600-125-1-11

ZONING DISTRICT: Industrial C (IND C)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 159,517 sq. ft. or 3.66 acres. Minimum lot area is 80,000 square feet; minimum lot width at front street is 300 feet; maximum building lot coverage with and without sewer is 40%; maximum impervious surface is 60%; maximum height of buildings is 30 feet; maximum floor area ratio with and without sewer is 0.40; minimum front yard depth is 30 feet; minimum depth for each side yard of an interior lot is 30 feet; minimum combined depth for 2 sides of an interior lot is 60 feet; minimum depth facing side street for a corner lot is 30 feet; minimum combined depth for 2 sides or a corner lot is 60 feet; minimum rear yard depth is 50 feet.

DATE OF HEARING: 4/11/19, 4/25/19

INSPECTION DATES: 4/6/19, 4/8/19, 4/9/19, 4/11/19

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.

SEORA: The Zoning Board of Appeals has visited the property under consideration and reviewed the application and determines that this review is an Unlisted Action with no coordinated review required.

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 March 7, 2019, and an application was made to the Zoning Board of Appeals on March 8, 2019.
2. Property received relief from the Zoning Board of Appeals, No. 17-16, for impervious surface of 65.8%. Subsequently, site plan modifications were proposed and variance expired.
3. Property received the following Certificates of Occupancy:
  - a. C/O dated March 22, 2012 for an interior alteration and office use for Apria Healthcare
  - b. C/O dated April 11, 2012 for interior alteration and use for Safari Adventure
  - c. C/O dated March 22, 2012 for shell only for the northerly building
  - d. C/O dated October 1, 2015 for interior alteration for Gymnasion, interior walls, concrete block retaining walls, electric and plumbing
  - e. C/O dated April 26, 2016 for use and interior alteration to the building for Party Rental LTD storage
  - f. Reconstructed C/O dated December 13, 1966 for a storage warehouse building
  - g. Certificate of Compliance dated June 30, 2010 for use for Gear Work marine Industrial
  - h. Certificate of Compliance dated June 15, 2010 for use for Building #4 warehouse and Building #3 office space

- i. Reconstructed C/O dated September 30, 1969 for warehouse storage building in accordance with a survey dated 9/29/1969
  - j. Reconstructed C/O dated January 28, 1980 for alteration and addition to warehouse storage building of an office.
4. 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 used as an industrial park and is currently improved with the following:
    - i. Two metal buildings, a concrete block building, and a concrete and brick building
    - ii. Associated site improvements including landscaping, parking, and drainage
    - iii. 6' x 10' directory sign located on the southwest corner of the property
    - iv. Two 4' x 8' signs on the western side of property, along Columbus Avenue, identifying each of the two metal buildings

**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 the parking area is part of the complex and is utilized by the tenants and customers.
- 2. The requested variance is not substantial because the area is currently gravel parking; the use is the same, but asphalt will be an improvement as it is cleaner, safer, and easier to snow plow.
- 3. The benefit sought by the applicant cannot be achieved by some alternative means because the parking area is necessary for clients, gravel is more difficult to walk on and maintain in inclement weather, and the modification will improve drainage.
- 4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the necessary drainage improvements are incorporated into site plan approval.
- 5. The alleged difficulty that the property owner is experiencing was not self-created because although gravel parking presently exists, the proposed site improvements for the parking lot will increase safety and facilitate maintenance of the area.

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

**THE VOTE**

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

**3. Appeal No. 2019-013 – Brenda Barber – 25 Locust Road, Wading River – SCTM No. 600-27-3-68 – RB80 Zoning** - for variances and/or relief from Chapter 301 Section 29 A(1)(b) where shed (6.5'x6.5') is 2.2 feet from property line and minimum required is 25 feet; Section A(1)(c) where shed (8'x12') is 10 feet from property line and 8.7 feet from rear street line and minimum required is 20 feet and 60 feet; where shed (10'x14') is 5.8 feet from the rear street line and minimum required is 60'; Section 31 where proposed impervious surface coverage exceeds 15% of the lot area and maximum permitted is 15%; where proposed combined side yard is 20.63 feet and minimum required is 65 feet; where proposed rear yard setback is 38.91 feet and minimum required is 75 feet; and, Section 222 E where proposed addition increases gross floor area within a required side and rear yard representing an increase in degree of nonconformity of a preexisting dwelling which is not permitted.

John Van Velsor, architect, 74 Josephine Drive and Mary Ortega, 25 Locust Road, Wading River, were sworn in. Mr. Van Velsor stated, we are here on behalf of asking for a variance. My client has requested to do a one story addition to the rear of the house for some additional living space. She has recently taken in her mother and aunt who is disabled and is in badly need of some additional living space for the house. The addition is configured in such a way that the east property line toward the rear is being encroached roughly about ten feet off the property line which somewhat equals the existing setback on the other side of the house up toward the front of the house. So, we worked to try to configure it in such a way that we wouldn't be encroaching any further than the existing house already does to the property. If there's any questions...Mr. Barnes asked, so, are they going to be living in the back portion of the house? Mr. Van Velsor answered, the actual bedroom space is in the basement section which I believe is also part of the legalization of the basement room. The back of the house will be a living room and a family room. Mr. Barnes asked, so the basement is going to be for the mother and the aunt? Ms. Ortega answered, my mother and my cousin. Mr. Barnes asked, and they're disabled? Ms. Ortega explained, my aunt is disabled. She's in a hospital bed. Mr. Barnes asked, how would she get down the stairs? Ms. Ortega replied, she wouldn't be down the stairs; she would be on the main floor. So the living room and family room would be on the extension part. I can fit the hospital bed if I need to move her out of her room. Mr. Barnes asked, what's in the basement currently? Ms. Ortega responded, my mom and my cousin. Mr. Barnes asked, so they live downstairs already? Ms. Ortega answered, yes. Mr. Barnes continued, you want to add on so you can...would there be a proposed kitchen on this addition? Ms. Ortega replied, no. Mr. Barnes verified, there's no proposed kitchen? Ms. Ortega explained, no; I already have a kitchen on my main floor. I'm the one who cooks and takes care of everybody. Mr. Seabrook asked, is it a bedroom and a bathroom that you're adding? Ms. Ortega stated, a living room and like a dining room. Mr. Barnes stated, I'm trying to get the layout in my head. Do you have a layout? Mr. Van Velsor presented a floor plan to the board. Mr. Wittmeier stated, two story residence that's 787 sq. ft. That's very small. Mr. Barnes added, well, the main house is 1,500 sq. ft. Mr. Wittmeier stated 648 sq. ft. addition. Mr. Barnes stated, they were built without a permit, I take it, and now the Town said if you want to legalize...put the addition on...you have to legalize it. You brought it up that you want to make it legal, which was good. Mr. Van Velsor added, we're putting the egress window. Initially the grade does drop off; we were thinking of putting piles in and elevating the first floor so it's equal to the existing first floor. But this is now going to be a full basement instead of the piles. Mr. Barnes asked, you're going to walk in the front door to the kitchen? Mr. Van Velsor answered, you walk into the existing kitchen. This is the bedroom for the aunt. There's a bathroom. A dining room which is kinda just a great room at this point. We're looking to build a connecting hallway and a living room and a family room pretty much of equal size. The remainder of the bedrooms are upstairs. Mr. Barnes stated, I'm looking at the first floor; where's the closets? Where's the bedroom closet here? Mr. Van Velsor answered, this is an existing bedroom that has no closet. Mr. Barnes added, there's no closet proposed in the two bedrooms, either. What's that about? Mr. Van Velsor replied, these are family rooms there, the living room and family room. Mr. Barnes replied, okay. Mr. Van Velsor explained, the bedrooms are downstairs. Mr. Barnes noted, there are some closets, but it doesn't seem like a lot. Alright, just trying to make sure it flows correctly. And there's an additional two bedrooms upstairs. Five bedrooms in the house? Mr. Van Velsor answered, right. Mr. Barnes asked, none of them will be rented out or anything like that? Mr. Van Velsor answered, no, it's all going to be family. Mr. Wittmeier asked, do we need three sheds on the property? Ms. Ortega replied, no sir. The plastic sheds were just temporary, so while I was moving my family in, that's where I kept...Mr. Wittmeier asked, which one? Ms. Ortega answered, the plastic ones. Mr. Wittmeier asked, is that the 6 x 5? Ms. Ortega replied, yes the 6.5. Mr. Wittmeier asked, so that's going to be removed? Ms. Ortega stated, yes. Mr. Wittmeier then asked,

and the other ones you need? Ms. Ortega responded, the other ones I need ‘cause one was for me, my son, and my wife, and the second was for my mom, my aunt, and my cousin’s belongings. We can relocate it if it has to be moved; I will move it. Mr. Seabrook asked, so this entire addition is exclusively for family? Ms. Ortega answered, yes. Mr. McLaughlin asked if there were any questions or comments from the public. There was no one. Mr. Barnes asked, Mr. Wittmeier, did you say the shed was 6 x 6? Mr. Wittmeier answered, on the survey it shows 6.5 x 6.5. Mr. Barnes confirmed, that’s going to be eliminated? Ms. Ortega replied, yes. Mr. Barnes stated, okay, what we’re going to do is have that removed then. We’re not going to seek a variance for it. Mr. Wittmeier added, no. Mr. Barnes noted, we’re not going to have it in the reading.

A motion was made by Mr. Barnes and seconded by Mr. Seabrook that the appeal be granted (with variance for 6.5 x 6.5 shed removed from relief). The motion carried by a roll call vote of all members present:

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

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-013

APPLICANT/PROPERTY OWNER: Brenda Barber, 25 Locust Rd, Wading River, NY 11972

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section A(1)(c) where shed (8’x12’) is 10 feet from property line and 8.7 feet from rear street line and minimum required is 20 feet and 60 feet; where shed (10’x14’) is 5.8 feet from the rear street line and minimum required is 60 feet; Section 31 where proposed impervious surface coverage exceeds 15% of the lot area and maximum permitted is 15%; where proposed combined side yard is 20.63 feet and minimum required is 65 feet; where proposed rear yard setback is 38.91 feet and minimum required is 75 feet; and, Section 222 E where proposed addition increases gross floor area within a required side and rear yard representing an increase in degree of nonconformity of a preexisting dwelling which is not permitted.

LOCATION: 25 Locust Road, Wading River 11972

SCTM#: 600-27-3-68

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 8,365.33 sq. ft. or 0.192 acres. 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: 4/25/19

INSPECTION DATES: 4/25/19

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 February 26, 2019 and an application was made to the Zoning Board of Appeals on March 19, 2019.
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. Two story frame/vinyl dwelling with wood deck
    - ii. Vinyl shed (6.5' x 6.5')
    - iii. Two frame sheds (8.2' x 11.8' and 10' x 14.2')

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 the neighboring properties have similar setbacks and the property is constrained due to a grossly undersized lot in a two acre zoning use district.
2. The requested variance is not substantial because the proposed setbacks are within the same limits as the setbacks for existing dwelling.
3. The benefit sought by the applicant cannot be achieved by some alternative means because they wish to expand the home which is on an undersized lot.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as there will be no additional clearing required, and existing sanitary to be properly abandoned to SCDHS standards; proposed five bedroom system to be installed.
5. The alleged difficulty that the property owner is experiencing was not self-created as the lot is undersized and nonconforming; any additions will require relief.

The motion was made by Mr. Barnes and seconded by Mr. Seabrook that the aforementioned determination be approved:

**THE VOTE**

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

- **Note:** Original request for relief was modified to remove variance for 6.5' x 6.5' shed, as the owner will remove this structure.

If this is an approval, it is necessary that you take this duplicate original letter with you to the Building Department when applying for a Building Permit. Pursuant to Riverhead Town Code §105-8(D), any determination made by the Zoning Board of Appeals shall not become effective unless a permit is obtained in accordance herewith within one year of the date of such determination, unless the Zoning Board of Appeals has stipulated a different period of time in its determination. The Zoning Board of Appeals shall have the power, by resolution, to extend its determination for a period of one year upon written notice from the applicant or his agent of the desire to do so. No more than three such extensions shall be allowed. The provisions of this subsection shall not apply in cases of interpretation of variances for the use of land unless the Zoning Board of Appeals has indicated a time period in the determination. Failure to comply therewith will render this approval null and void. In the event that this is an approval subject to conditions, the approval shall not be deemed effective until such time that the foregoing conditions are met.

**Minutes of April 11, 2019** – A motion was made by Mr. Wittmeier that the minutes be adopted. The motion was approved by a roll call vote of all members present:

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

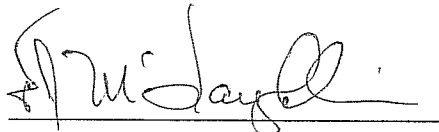
**NEXT MEETING DATE** – May 9, 2019 at 6:30 PM

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

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

Approved and Dated: May 9, 2019

Very truly yours,



Fred McLaughlin, Chairman  
ZONING BOARD OF APPEALS