

ZBA Minutes – February 14, 2019
ZONING BOARD OF APPEALS
TOWN OF RIVERHEAD
SUFFOLK COUNTY
RIVERHEAD, NEW YORK
(631) 727-3200

These minutes are a summary of the February 14, 2019 Town of Riverhead Zoning Board of Appeals meeting held at the Town of Riverhead Town Hall, Riverhead, NY.

PRESENT:	ABSENT:
Frank Seabrook	Leroy Barnes
Fred McLaughlin	Otto Wittmeier
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.

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

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

2) Chairman McLaughlin announced the adjournment of Appeal No. 2019-001.

Appeal No. 2019-001 – Robert and Kathleen Glass – 120 Louise Court, Riverhead – SCTM No. 600-17-1-8.3 – RA40 Zoning - for variances and/or relief from Chapter 301 Section 9 A(1)(a) where the proposed pool, trellis & cabana are located in front yard which is not permitted.

A motion was made by Mr. Seabrook and seconded by Ms. Worthington that the appeal be adjourned to February 28, 2019. The motion carried by a roll call vote of all members present:

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

1) 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. ADJOURNED from 1/24/19

Brian Baer, executive director of The Elevated Studio, 601 W. 26th St, Suite 325, New York, NY 11001 was present for the application. So we are adding a stair tower adjacent to the preapproved elevator for a single family residence on Long Island Sound on Creek Road. Uh, this is a Superstorm Sandy repair project, and so, for accessibility purposes, we're creating a new stair tower adjacent to the fully accessible elevator to allow the residents to move from grade up to the main floor and the upper floor. The setback from the westerly property line to the closest corner of the new stair tower is 14.4 feet, um, which I understand it, is why we are here for the variance. Mr. McLaughlin stated, it sounds simple enough. Mr. Baer answered, it is simple. Mr. McLaughlin asked the audience, anyone have any problems with this? Anyone out there? No? Okay, no problems; let's have a reading.

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

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

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-003

APPLICANT/PROPERTY OWNER: James LoScalzo, 22 Creek Road, Wading River, NY 11792

RELIEF SOUGHT: for variances to 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 non-movable structure within the Coastal Erosion Hazard Area which is not permitted.

LOCATION: 22 Creek Road, Wading River

SCTM#: 600-29-1-4

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 0.4 acres or 17,424 square feet. 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: 2/14/2019

INSPECTION DATES: 1/21/19 & 1/22/19

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 as 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 November 8, 2018 and an application was made to the Zoning Board of Appeals on January 8, 2019. Hearing scheduled for January 24, 2019 was adjourned and set for February 14, 2019; a determination was then granted.
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/dwelling is presently a Superstorm Sandy recovery project for reconstruction of a 2 story frame dwelling with garage.
 - b. Property received Chapter 219 approval per Planning Board Resolution #2019-062 dated August 2, 2018 for elevation of the existing residential dwelling in accordance with the New York State Rising Program for flood protection.
 - c. Dwelling received an LPEU on May 15, 1990, vesting zoning as Residence A, which may conform to the dimensional requirements of Residence B per Town Board Resolution #243 dated March 21, 1989.

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 staircase addition will not extend higher than the main structure of the residence.
2. The requested variance is not substantial because it marginally increases the footprint of the structure, yet is setback farther from the mean high water line than the north façade of the existing home.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the proximity of the staircase and elevator is critical to the occupancy of the residence and its owners.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the addition is set within the down-slope of the bluff, away from the water-side of the bluff.
5. The alleged difficulty that the property owner is experiencing was not self-created as the location of the existing home, the garage, and septic system pre-dated the zoning requirements and Superstorm Sandy.

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

THE VOTE

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

2) Appeal No. 2019-004 – Jeni Kreiger – 5 Oakwood Drive, Manorville – SCTM No. 600-146-1-22.7 – NRP Zoning - for variances and/or relief from Chapter 301 Section 179 where proposed impervious surface is 36% of the lot area and maximum permitted is 7%; proposed floor area ratio is 14.58% and maximum permitted is 5%; proposed front yard setback is 25 feet and minimum required is 100 feet; proposed side yard setback is 30.67 feet and minimum required is 50 feet; proposed combined side yard is 87.83 feet and minimum required is 100 feet; proposed rear yard is 35.08 feet and minimum required is 100 feet; and Section 180 A(1)(c) where proposed garage is 14 & 15 feet from property lines and minimum required is 20 feet.

Robert Stromski was present for the application. He resides at 44 Circle Drive, Jamesport. Mr. Stromski stated, I'm the architect for the applicant. What you have before you is a property that currently has a trailer, single family residence on the parcel. Uh, the property owners would like to remove that and construct a new single story dwelling, um, that would be fabricated on site, and also a detached garage. Due to some of the limitations of the property owner, a second story or a two story dwelling was not as part of the design requirements, we tried to do everything as a single story and also to create a design that would be very friendly to the mobility of the occupants so that we could have access to grade via ramps and not too many stairs and so forth. So, that kind of made the design a little more spread out than it would normally be if it were a two story structure. Although it may seem that some of the setbacks are excessive in their requirements, it should be stated that the parcel is fairly small and the requirement for the 100 foot front yard setback and some of these other setbacks would almost be nearly impossible to create any sort of a dwelling, and also even the 7% impervious surface would be very difficult for the size of the lot with the requirements needed for the design. Even though we are close to the property with some of the projects in the building elements, the fact that it is a one story, the mitigations to the adjacent properties would be greatly reduced, than if it was a two story structure facing somebody. So, to just kinda give everybody a perspective, the roof fascia of the entire residence above grade would be 10'2" and the highest ridge of the main structure would be only 19'6". The detached garage would have basically a roof eave height that would be 14 feet away from the property of 15'6" to a ridge height that would be further away from the property that would only be 21'11". So, when you kinda look at the structures and the massings that they are, they are fairly reduced, and we feel that the impacts to the adjacent neighbors would be greatly reduced from the proposed aspects of the project. We also feel that the architecture of the buildings would be in character to the surrounding neighborhoods. I do have proposed floor plans and proposed elevations if the board would like to see. Mr. Seabrook stated yes. Mr. Stromski provided three copies for the board to review. Mr. Stromski noted, the first page is just the floor plan. The second page shows the proposed elevations for the building which is using a traditional style of architecture. (inaudible)...which also mitigate a lot of the aspects to the adjacent properties because we're not really proposing a lot of gable ends to the side yard and front yards, um, as could happen with certain designs. As you can see the type of architecture we are providing for the main residence...the detached garage, you don't have an elevation for, but essentially, it's just a reverse gable; it would match the aesthetics of the house for the most part, in siding and color and would be complementary to the style. We feel that this project would definitely be in character of the surrounding neighborhood and would have no impacts. If the board has any questions to discuss, I would be happy to answer them, or if anyone from the audience has any questions...Mr. Seabrook asked, first question, what's the purpose of the detached garage? Mr. Stromski stated, the home owner is here. I'd like to have him answer that for you. Kevin Barrett was sworn in. Mr. Barrett stated, the garage is for...uh, I have a camper, a boat, things like that. I have the opportunity to put the space up to enclose everything

instead of having covers; things like that. Also, it would make it a lot easier to work in there in the winter if it's cold. Get all my stuff ready for the summer, but it's basically for recreational things like that. Hobbies, storing my lawn tractors, lawn mowers, things like that. Mr. Seabrook asked, there is no second floor on the detached garage? Mr. Barrett answered, no it's going to be a 14 foot high...Mr. Seabrook asked, it's going to be open? Mr. Barrett answered, I believe there's gonna be a truss roof, so just whatever the ceiling goes up to; if it's 14 feet. Mr. Seabrook questioned, so there's not even storage up there? Mr. Barrett replied, if we can, maybe we'll put some storage up there, but we probably have the height to do some shelves in the back or something like that, up high, if we need to. Mr. McLaughlin stated, alright; thanks very much. Anyone else to be heard on this matter? There were no public comments. Mr. Stromski addressed the board, just to reiterate on the question of the detached garage, with the wall head of about 15'3" and a ridge height of about 22', you're probably only looking at the very center, maybe about a 6 foot head height. So, the amount of storage that would be there would be minimal, you know things that you could put on the ceiling joist of that nature, so it would not be a tremendous amount of storage, if anything. More flat goods, probably nothing more than 2 feet high, things of that nature, so just to give you a sense of perspective as to what could possibly be stored in that attic space. Mr. McLaughlin stated, alright, if nobody has any questions, I think we're satisfied. Let's have a reading.

A motion was made by Ms. Worthington 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	ABSENT
Mr. Seabrook	AYE
Ms. Worthington	AYE
Mr. Wittmeier	ABSENT
Mr. McLaughlin	AYE

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-004

APPLICANT/PROPERTY OWNER: Owner: Raymond Kreiger, PO Box 44, Manorville, NY 11949; Applicant: Jeni Kreiger, 5 Oakwood Drive, Manorville, NY 11949

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 179 where proposed impervious surface is 36% of the lot area and maximum permitted is 7%; proposed floor area ratio is 14.58% and maximum permitted is 5%; proposed front yard setback is 25 feet and minimum required is 100 feet; proposed side yard setback is 30.67 feet and minimum required is 50 feet; proposed combined side yard is 87.83 feet and minimum required is 100 feet; proposed rear yard is 35.08 feet and minimum required is 100 feet; and Section 180 A(1)(c) where proposed garage is 14 & 15 feet from property lines and minimum required is 20 feet.

LOCATION: 5 Oakwood Drive, Manorville, NY 11949

SCTM#: 600-146-1-22.7

ZONING DISTRICT: Natural Resources Protection Zone (NRP)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 29,833 square feet or 0.685 acres. Minimum lot area is 160,000 square feet; minimum lot width is 200 feet; maximum impervious surface is 7%; maximum height of residential buildings is 35 feet; minimum front yard depth is 100 feet; minimum either side yard width is 50 feet; minimum both side yards total width is 100 feet; minimum side yard abutting side street is 100 feet; minimum rear yard depth is 100 feet; maximum floor area ratio is 5%; maximum building lot coverage is 25%; accessory in rear yard setback is 20 feet; accessory setback to side/rear street line is 60 feet; accessory in side yard setback is 30 feet.

DATE OF HEARING: 2/14/19

INSPECTION DATES: 2/10/19, 2/11/19, & 2/12/19

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(13) 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 December 10, 2018 and an application was made to the Zoning Board of Appeals on January 18, 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. Mobile home which will be removed

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 project is similar to other setbacks within the neighborhood; therefore, this project conforms to the neighboring characteristics of the community.
2. The requested variance is substantial; however, the proposed setbacks are in conformance with neighboring properties.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the property does not allow for a majority of setbacks required; restricted mobility of owner requires gentle sloping and hard surfaces due to his prosthetic. Impervious surface provides best access around the site for the impaired owner.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the proposed project will upgrade the sanitary system and improve impact on the environment.
5. The alleged difficulty that the property owner is experiencing was not self-created as the zoning of the parcel and its required setbacks, maximum floor area ratio and impervious surface restrictions make it difficult for the project to conform. A single story residence is required for owner's mobility and produces a larger square foot print than a two-story home.

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

THE VOTE

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

Mr. McLaughlin wished all a happy Valentine's Day.

Minutes of January 24, 2019 – A motion was made by Mr. Seabrook 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	AYE
Ms. Worthington	AYE
Mr. Wittmeier	ABSENT
Mr. McLaughlin	AYE

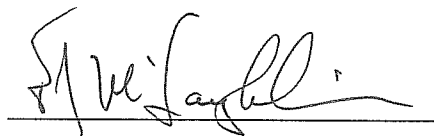
NEXT MEETING DATE – February 28, 2019 at 6:30 PM

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

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

Approved and Dated: February 28, 2019

Very truly yours,



Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS