

ZBA Minutes – April 11, 2019
ZONING BOARD OF APPEALS
TOWN OF RIVERHEAD
SUFFOLK COUNTY
RIVERHEAD, NEW YORK
(631) 727-3200

These minutes are a summary of the April 11, 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	
Otto Wittmeier	
Fred McLaughlin	
Lisa Worthington	
Dawn Thomas, Counsel	

REQUEST FOR EXTENSION

Appeal No. 2017-014 – Kenneth Schroder – 48 Willow Street, Aquebogue, SCTM No. 600-87-1-14 - for variances to and/or relief from the provisions of Chapter 301 Section 17 where the proposed front yard setback is 40 feet where the minimum require is 50 feet, the proposed side yard setbacks are 15.9 feet and 21 feet where the minimum required is 25 feet, the proposed combined side yard is 36.9 feet where the minimum required is 55 feet and the proposed rear yard setback is 41.8 feet where the minimum required is 60 feet.
(Request for 2nd extension to April 27, 2020)

A motion was made by Mr. Wittmeier and seconded by Mr. Seabrook that a second one year extension be granted, thus expiring April 27, 2020. The motion carried by a roll call vote of all members present:

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

PUBLIC HEARINGS

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.

Ms. Thomas swore in Diana LaSpisa, Morano Expediting Services, 4 Hamilton Court, Coram 11727, on behalf of the property owner, Patricia Illana. Ms. LaSpisa stated, we're requesting permission to construct a sunroom addition off the rear of the existing dwelling. The proposed sunroom will be 12' x 20'. It will be holding a 25.8 rear yard setback. The sunroom will be unheated, and it is going to be flush with the first floor elevation of the home and projecting off of the dining room. It is something that is just used seasonally; it's not heated. It won't be open to the rest of the house, but it does need to hold the setbacks; it is considered an addition for zoning purposes, but it really is used more like an accessory structure. I do have some photos of the home, the area where the proposed sunroom is going. There is a lot of vegetation between the house behind them and the subject property. So, during the spring, summer, fall...a lot of the trees are bare right now, but it'll be screened pretty

well from the neighboring property. (Ms. LaSpisa submitted photos to the board to review.) With regards to the shed, there are two sheds on the property. The owner is going to be removing the larger shed (8' x 12') because it is not entirely on their property. They do want to, if possible, maintain the metal shed. It's very old; I'm not sure how much longer it would last, but if they did have to relocate it, I'm not sure it would make the move. Mr. McLaughlin asked if anyone on the board had any questions. They did not.

Ms. LaSpisa continued, the existing house, as the board is already aware, does not meet the rear yard setbacks, so any addition necessary would have to be before the board. Mr. Wittmeier confirmed, and the large shed is going to be removed? Ms. LaSpisa answered, yes; the 8' x 12'. That will have to be removed prior to them issuing the C/O. That will be a condition of the building permit.

Ms. Thomas swore in Sid Wong, 2 Berry Lane, Wading River. Mr. Wong stated, thank you very much for providing us the information in time for the hearing. My wife over here, Alison...we own the dwelling adjacent behind the home where I believe the sunroom is looking to be raised. We were here to listen to what the situation was. I wasn't aware that there were two sheds; I thought there was one. I would like to take this opportunity to issue a formal protest to the variance based off of the fact that it's not in compliance; also, while there is vegetation in the back, a lot of it did fall down during one of the storms. We do have direct visible access to our neighbors and to have them closer or bring in closer to us would raise some issues with enjoyment of our property. Mr. Barnes asked, have you seen the survey? Mr. Wong stated, no; this is my first opportunity. A survey was shown to Mr. Wong. Mr. Barnes added, we're going to put a condition on the permit for the sunroom to remove the shed that's overlapping that property. Ms. LaSpisa explained the survey and the shed overlapping Mr. Wong's property will be removed. She added, the shed we're here for does meet the 10' setback to Mr. Wong's property; it's the neighbor to the north they need the setback for. Mr. Barnes asked, if you're comfortable with the shed being removed, would you be okay with the sunroom? Or do you still object? Mr. Wong stated, I'm still going to object. Mr. Barnes asked, what would that be the reason for? Mr. Wong answered, like I said, we already have plenty of visibility into our neighbor even with the vegetation in place based off of the trees in that area. Mr. Barnes asked, so, if they put a 12' x 20' sunroom on, you're going to object to that? Mr. Wong replied, yes. Mr. Barnes asked, because you can't see anything? You have visibility issues? Mr. Wong answered, I mean, we'd be able to see right into the sunroom. Mr. Barnes verified, YOU'LL be able to see in the sunroom? Mr. Wong said, yeah. Mr. Wittmeier asked, so you border them in the back? How far is your house from the rear boundary? Mr. Wang answered, it's our side of the house. Mr. Wittmeier asked, how far is it from the property line? Mr. Wong answered, I'm not entirely sure there. Mr. Seabrook asked, according to this survey, which is your property? Mr. Wong responded, Doyle. Mr. Seabrook confirmed, so their current shed is on your property? Mr. Wong replied, yes. Mr. Barnes answered, so that would be your objection? Mr. Wong answered, yes.

Ms. LaSpisa stated, those pictures were taken the date the sign was posted. There is a lot of vegetation there that when spring hits, the leaves come on and it would screen it; it's not a very...I don't have an aerial, unfortunately. When I was in the yard, I couldn't see the neighbors behind them. I took a picture this way and this way, so you could get the whole rear yard. Certainly, this time of year, you can, but this time of year is not when the sunroom is going to be used. The height of the sunroom; it's not like they're looking to build a very large two-story addition. The height of the sunroom is going to be 9'4". It's a one story home; it's a small home considering homes these days with the McMansions people build. They just want to be able to be outside and get the feeling of being outside. Mr. Barnes asked, do you think your client would be willing to put in a couple of arborvitaes? Or maybe a six foot fence? Ms. LaSpisa answered, I was going to recommend that. I'm sure; they want to be able to utilize the property. I think a six foot fence...I don't want to offer that; that could be slightly expensive. Does it have to be a solid fence? Mr. Barnes stated, I'm just making a suggestion so that the neighbors feel comfortable. Ms. LaSpisa replied, I think maybe they would be okay with that, if they had to plant; they would do it along their property line. They're not going to do it along the sunroom. Mr. Barnes responded, of course. Ms. LaSpisa

continued, I think they would be open to that. I'm not sure about necessarily the whole length. Mr. Barnes stated, certainly we would consider what their visibility issues are. I don't know how many feet of arborvitaes you would need. Mr. McLaughlin stated, why don't you go back to your clients and see if they can do something to block the view. Mr. Wittmeier added, I would like to know what the distance is from their property line to the side of the house. The pictures don't show their house in there. Ms. LaSpisa answered, I can get that. And you can't see a house; I was back there. I took the pictures myself; you can't see the house. Mr. Wittmeier reiterated, I would like to see that measurement. Ms. LaSpisa answered, I can definitely get that. I didn't hear the gentleman's address. Mr. McLaughlin stated, you can get it from them in the back.

Mr. Seabrook asked Mr. Wong, how far is your house from the property line? Mr. Wong stated, we're not exactly sure what the distance is from the property line. Mr. Seabrook asked, if we're going to come back, can you take a picture out the back of your house at their house? Mr. Wong answered, sure; it's the side of my house. Mr. Wittmeier explained, the side faces their back of the house. Mr. Seabrook continued, so the side of your house, which is the property formerly Doyle...Mr. McLaughlin noted, a couple of us are going to stop by again. Mr. Seabrook and Mr. Wittmeier asked, are there windows on that side of the house? Mr. Wong's wife spoke from the audience, no but the deck is off the back, but no, there are no windows. Mr. Seabrook asked, so in other words, right now the back of their house is 37.8 feet from the property line? You're saying that extra 12 feet is going to affect you? Mr. Wong stated, yes. Mr. Seabrook asked, how? Mr. Wong replied, I believe it will affect us because we have visibility into their sunroom, and we would prefer not to have that there. Mr. Seabrook asked, so you already see their house? Mr. Wong answered, yes. Mr. Barnes asked, so you have visibility of the back door? Mr. Wong replied, yes. Mr. Barnes continued, if they're outside barbecuing, you see that? Mr. Wong answered, we see their house, yes. Mr. Seabrook asked, you currently have visibility of them? Mr. Wong replied, yes. Mr. Seabrook added, and you're going to continue to have visibility of them? Mr. Wong noted, that's correct. Mr. Barnes asked, may I ask you a question? Mr. Wong said, yes. Mr. Barnes went on, would you be amenable to screening? Mr. Wong answered, we would be, yes. Mr. Barnes asked, if they put some arborvitaes? Mr. Wong answered, yes. Mr. Barnes stated, maybe we can just put a condition in that or (directed to Ms. LaSpisa) you want to work it out with them first? Mr. McLaughlin stated to Ms. LaSpisa, I'd like you to go back to your client. Ms. LaSpisa replied, yes. I'd like to bring to your attention, so...if they're in the yard, I'm assuming you can hear what they're saying and see them entertaining. By them being inside the sunroom is actually going to be less intrusive 'cause they're gonna be more enclosed. Mr. McLaughlin answered, let's go back to your client and see if they can do some arborvitaes, some kind of a screening there. Ms. LaSpisa answered, yes, and I will bring an aerial, and if it's possible for them to bring their survey for the next hearing. The board agreed. Mr. Seabrook asked Mr. Wong, if you could bring a picture, too? Mr. Wong agreed.

Mr. Wong stated, I won't be able to make that meeting. Can I get you the information before then? Mr. McLaughlin asked him to exchange numbers with Ms. LaSpisa after the hearing. All agreed. Mr. McLaughlin stated, a decision will absolutely be made at the next meeting.

A motion was made by Ms. Worthington and seconded by Mr. Seabrook that the appeal be adjourned to April 25. The motion carried by a roll call vote of all members present:

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

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%.

Richard Israel, business address 889 Harrison Avenue, Riverhead, was sworn in. Mr. Israel stated, I am the owner and managing member of SIRS Ventures LLC. Subject parcel is known as 1074 Pulaski Street, Riverhead and had received a variance on March 23, 2017, Appeal No. 17-16, which granted a variance for 65.8% impervious where the maximum allowed is 60%. Since that variance the Planning Board required us to go through a full site plan review process which hopefully will be approved soon. During this time, our original variance had expired. I didn't look to renew it at that time because I knew changes were happening to the plan and additional things were required. The question and the request, which I believe is a mistake on my part on the application, is we seek 68% instead of the 66% on the application. The reason for the additional coverage is that we are building handicapped accessible walkways which connect the front buildings, three and four's parking lots, with the parking lots in the rear. We are creating an additional, larger dumpster pad to accommodate a thirty yard recycling dumpster, which one of our tenants currently has on the property, and other improvements that are required by the site plan. The Planning Board has required additional landscaping, making the complex lighting Dark Skies compliant, removal of the old, exterior oil tanks, which many of these items have already been done and removed. The site is now Dark Skies compliant, and the oil tanks were removed. The variance, as the first time we went through this process, is essential to the safety of good parking for the complex clients. The new hard surface is replacing an existing stone parking area. The new asphalt surface will make this portion of the parking lot a lot easier to maintain and will be striped to designate parking spaces. The current enclosed pen for outside storage will become additional parking. It will be removed from the site as it exists today. The additional drainage will be created to deal with the additional water that will come off the hard surface. The drainage system will be enlarged. This variance will not create an undesirable change to the character of the neighborhood. It will actually improve the availability and quality of parking. The requested variance is not substantial; the area is currently graveled, and additional sidewalk will improve the connection to the existing parking lots. The site is being improved from its existing conditions. The requested variance will not have an adverse impact on the physical or environmental conditions, as the asphalt will improve drainage of the parking lot and improve runoff. The conditions that exist were not self-created as we were just improving the existing parking lot and handicapped accessibility. We respectfully ask the board to grant this variance so this project can finally be completed after two years of planning since its last appeal. We would like to get the improvements completed as soon as possible. Mr. Barnes noted, Richard, you said you made the mistake on the application? Mr. Israel stated, yeah, I guess it was always 68 'cause that was on the plan. Ms. Collins handed Mr. Barnes a revised site plan showing the 68%. Mr. Israel stated, it's hard to calculate because of the existing conditions. I know Young & Young went back and forth and back and forth. At one time we had propane; there is one tenant that uses propane. We were putting the propane storage in an area which was against the building, and the Fire Marshal last week said it is allowed by code to be against the building, but we would prefer that it be three feet away. That got us closer to a curb on the parking lot, so, we actually have now moved it within a fenced area which will not have pavement underneath, in a gravel area next to an air conditioning unit. It will be screened and buffered. Mr. Barnes noted, conceptually I have no issue. I think it's fine, and it probably was needed back then. I can imagine what a nightmare it would be if...Mr. Israel, added, well, the parking is needed because of our tenancy. We have Safari there; we have the GymNation there, and during the winter it's very difficult for people to park and for us to plow it. Mr. Barnes asked, Carissa, did we correct and post the correct percentage? Ms. Collins answered, I spoke with Dawn about it; it was posted as 66%, the agenda was revised to 68%, and she (Ms. Thomas) advised to leave the hearing open for another two weeks. Mr. Barnes asked, until? Ms. Thomas stated, the question is was the notice adequate to give a person interested the thought that they ought to come, and the way it was posted was pretty accurate. Mr. Barnes added, 66 to 68, it's not a big deal. Ms. Thomas agreed and stated, and we said let's carry it over for another two weeks and make it clear that...Mr. Barnes finished, so the public can have opportunity to speak if they object? Ms. Thomas replied, correct. Mr. Barnes concluded, I get it. Mr. McLaughlin stated, so we see no problem here except that we'll give it another two weeks. You don't have to come back. Mr. Israel said, okay, I appreciate it; thank you for your help, as always. Mr. Seabrook asked, Mr. Chairman, are we gonna reserve decision? Mr. Barnes stated, no; you have to leave it open so people can object or approve or...

A motion was made by Mr. Barnes and seconded by Ms. Worthington that the appeal be adjourned to April 25, 2019. The motion carried by a roll call vote of all members present:

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

Appeal No. 2019-012 – Maryanne Gilmartin – 631 Peconic Bay Boulevard, Aquebogue – SCTM No. 600-87-2-24 – RB40 Zoning - for variances and/or relief from Chapter 301 Section 14 C where the proposed conversion of space over detached garage for habitable recreation space is deemed not to be a customary accessory use to principal single-family dwelling use.

Michael Kimack was sworn in on behalf of the applicant who was not present; her architect was present, however. Mr. Kimack stated, I imagine you have a copy of the drawings of the garage. It had existed for some time as somewhat as a garage/shed situation, taken down and replaced in the same perimeter. The front section of it was taken off, but it's about 26 foot across by 16'7" deep. The garage on the first floor with an area above which we propose to be conditioned for the environmentally safe storage of materials, etc. If you would look at the drawing, that particular section upstairs represents probably the interior about 392 sq. ft. But, because of the way the roof is pitched, on one side it's a V-cut; the bird's mouth basically sits on the floor. The other side it's about a 2 foot triple wall. Essentially, it's intended to have a walkway come out through the back entrance there. You really have about a 6'8" height, about 7' wide roughly. After that it dives off pretty quickly. We would like to be able to condition it, but it certainly isn't habitable; there is no water. It would just be heat and conditioning for safe storage; there's no real headroom. I think the headroom basically at 6'8" represents about 29% of the overall interior volume. I believe that the architect gave you a rendering over there to give you an idea of that fact that it's not spaced for storage; habitability would not come into question at all, unless you're really short. Mr. McLaughlin asked, do any of the board members have any questions? The board did not. Mr. Wittmeier stated, you answered the question about no bathrooms, no kitchens, etc. Mr. Kimack asked, do you have any questions of the architect? Mr. Barnes stated, I'm good. There were no further questions or comments from the board or the public.

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

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

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-012

APPLICANT/PROPERTY OWNER: Maryanne Gilmartin, 113 St. Johns Place, Brooklyn, NY 11217

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 14 C where the proposed conversion of space over detached garage for habitable recreation space is deemed not to be a customary accessory use to principal single-family dwelling use.

LOCATION: 631 Peconic Bay Blvd, Aquebogue

SCTM#: 600-87-2-24

ZONING DISTRICT: Residence B-40 (RB40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 65,471 sq. ft. or 1.503 acres. Minimum lot area is 40,000 square feet; minimum lot width is 150 square feet; maximum impervious coverage is 15%; maximum height of residential buildings is 35 feet; minimum front yard depth is 50 feet; minimum either side yard width is 25 feet; minimum both side yards, total width is 55 feet; minimum side yard abutting side street is 50 feet; minimum rear yard depth is 60 feet.

DATE OF HEARING: 4/11/2019

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(37) 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 March 6, 2019 and an application was made to the Zoning Board of Appeals on March 15, 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. 1.5 story dwelling under construction
 - ii. Frame storage shed
 - iii. Frame barn (renovated to two car garage with proposed storage loft)
3. Property received a Letter of PreExisting Use September 12, 1997 for structures prior to 1965: 1 ½ story frame single family dwelling with detached one car garage, one barn, one well pit and one extended frame shed.

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 completed two car garage with storage loft will be constructed in the same footprint as the former garage with a minimal height difference; there is little to no impact on adjacent properties.
2. The requested variance is not substantial because the proposed conditioned space is limited in area and height and is to be used as a storage area for the owner's property.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the loft area existed in form and space as part of the former existing garage. The use of that space as conditioned storage cannot be achieved by a separate building because the property does not offer alternate locations for such an additional accessory structure.

4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the garage with proposed conditioned loft is similar in size and construction to the demolished.
5. The alleged difficulty that the property owner is experiencing was self-created as the proposed conditioned storage loft was not in existence in the demolished garage; the new structure proposes the use of the roof line space not previously utilized as such. However, that fact does not prohibit this board from granting the relief sought.

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

THE VOTE

**MR. SEABROOK: AYE MR. BARNES: AYE
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 March 28, 2019 – A motion was made by Mr. Wittmeier and seconded by Mr. Barnes that the minutes be adopted. The motion was approved by a roll call vote of all members present:

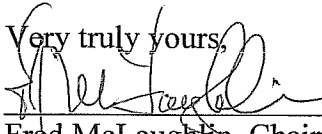
Mr. Barnes	AYE
Mr. Seabrook	AYE
Ms. Worthington	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

NEXT MEETING DATE – April 25, 2019 at 6:30 PM

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

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

Approved and Dated: April 25, 2019

Very truly yours,


Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS