



# TOWN OF RIVERHEAD

GRANTED

## DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2018-063

APPLICANT/PROPERTY OWNER: Paul Wesnofske, 274 Middle Country Road, Medford, NY 11763

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 186 B(6) where control building is 31.91 feet from rear property line and required is 50 feet; where rear addition to main building is 43.1 feet from rear property line and required is 50 feet; Section 186 B(8) where proposed impervious surface is 62% of the lot area and maximum permitted is 57%; Section 186 B(10) where 62.9% of the required parking is located within the front yard and maximum permitted is 25%; where parking within the front yard is 2.5 feet from property line and minimum required is 25 feet; Section 259 D(1) where exterior lighting is mounted at 25 feet (building) and 35 feet (poles) and maximum permitted is 16 feet; and, Section 259 D(2) where proposed exterior lighting will trespass onto adjoining property which is not permitted.

LOCATION: 301 Scott Avenue, Calverton

SCTM#: 600-135.20-1-6

ZONING DISTRICT: Planned Industrial Park (PIP)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 410,542 sq. ft. or 9.42 acres. Minimum park area is 100 acres in contiguous parcels. Minimum park width is 1,000 feet. Minimum frontage on an arterial road is 400 feet. Maximum floor area ratio is 0.15 in total for all buildings within the park. Maximum clearance is 65% of the park area. Minimum perimeter buffer shall be provided at the perimeter of the park of 100 feet in width. For uses within industrial parks, except offices, minimum lot area is 5 acres. Minimum lot width is 250 feet. Minimum street frontage is 200 feet. Minimum front yard depth is 75 feet. Minimum side yard depth is 50 feet. Minimum rear yard depth is 50 feet. Maximum floor area ratio for one-story building is 0.22. For multistoried buildings floor area ratio is 0.30. Maximum impervious surface coverage is 50% of the lot. Not more than 25% of all required parking shall be located in the front yard. No parking shall be located nearer than 25 feet to any property line or street right-of-way line. All service and unloading areas shall be screened from view of streets by one or more of a combination of walls, fencing, vegetation or berms.

DATE OF HEARING: 12/13/18 & 5/9/19

INSPECTION DATES: 12/8/18, 12/11/18, & 12/12/18

SUFFOLK COUNTY PLANNING COMMISSION: Pursuant to the Suffolk County Administrative Code Sections A14-14 to 23 this matter was referred to the Suffolk County Planning Commission, and by letter dated March 12, 2019 was considered to be a matter for local determination.

SEQRA: The Zoning Board of Appeals has visited the property under consideration and reviewed the application. By Town Board Resolution #2019-267, the Town Board assumed Lead Agency of the action classified as an Unlisted Action pursuant to SEQRA and issued a Negative Declaration.

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 15, 2018 and an application was made to the Zoning Board of Appeals on November 27, 2018.
2. Town Board Resolution #2019-268, dated April 11, 2019, approved a site plan application for a co-generation system on the subject parcel.

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. Concrete and metal building (321.5' x 102.3') with:
      1. 41' x 19.9' addition
      2. Roof structure (9' x 12')
      3. Two (2) conveyor belts
    - ii. Two (2) refrigeration units
    - iii. Three (3) silos
    - iv. Eleven (11) portable containers (five to be removed)
    - v. Gate booth
    - vi. Dumpster enclosure (10' x 35')
    - vii. Metal building (54.8' x 30.2')

**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 produce an impact on adjacent properties; however, the impact would not be a significant issue as the rear setbacks and lighting over-spill project towards the adjacent railroad spur. Beyond that, the light levels drop off. The neighborhood would not be greatly affected as the parcel is located toward the western end of the industrial park. Parking can be adequately screened from the adjacent parcel with an evergreen synthetic covering on the 6' chain-link fence.
2. The requested variances are not substantial based on the nature of the proposed use. The location is an industrial park where outdoor storage is common, and light is necessary to conduct business. The rear yard setback is near a rail spur and/or a water/storage tower. Parking can be adequately screened, and impervious surface is less than 10% beyond the permissible percentage.
3. The benefit sought by the applicant cannot be achieved by some alternative means because due to the nature of the use for the control building and its required proximity to the rail spur, it is impractical to move the building beyond the proposed setbacks. The addition to the existing building is the minimum required space to house the needed equipment. Lighting height utilizes existing building mounts, and the outdoor poles are higher than the required outdoor storage. A 16' height limitation is not practical for site lighting in an industrial core. The proposed parking is listed in a front yard based on the layout of the existing road and right of way, but the perception of the surrounding use makes it more in-line with a side yard.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the district because though the mounting height is higher than allowed, dark sky compliant fixtures are proposed to limit the waste light into the sky. The rear yard setbacks and parking locations do not affect the environment. The impervious surface requested would not alter the existing storm water retention system in place or allow runoff to adjacent parcels.
5. The alleged difficulties that the property owner is experiencing were not self-created as the existing building light fixtures are above the maximum height allowed. The rear yard setbacks limit the required development and success of the operation. The location of the rail spur requires the control building to encroach on the rear yard setback. The nature of the existing development hinders the allowable placement of the required parking and the efficiency of moving product. The maximum impervious surface areas were not created by the client and hinder the efficacy of moving and shipping product. The competitive nature of the fence industry requires large amounts of product to move around the site and ship. The product is produced on a 24-hour period, and the efficiency is made by constant flow of product.

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: AYE**  
**MRS. WORTHINGTON: AYE MR. WITTMEIER: AYE**  
**MR. MCLAUGHLIN: AYE**

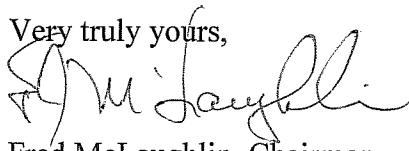
**This determination X was \_\_\_ was not  
therefore duly adopted**

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**

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.

Dated: 5/23/19

Very truly yours,  
  
Fred McLaughlin, Chairman  
ZONING BOARD OF APPEALS



# TOWN OF RIVERHEAD

GRANTED

## DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-014

APPLICANT/PROPERTY OWNER: Conrad Hoenig, 105 15<sup>th</sup> Street, Wading River, NY 11792

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 29 where proposed pool setback is 10 feet and minimum required is 20 feet; Section 31 where proposed building area is 24.6% of the lot area and maximum permitted is 20%; where proposed rear yard setback is 33.7 feet and minimum required is 50 feet; and Section 222 E where proposed addition increases gross floor area within a required rear yard, increasing degree of nonconformity of a preexisting nonconforming dwelling which is not permitted.

LOCATION: 105 15<sup>th</sup> Street, Wading River

SCTM#: 600-34-1-26

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 12,780 sq. ft. or 0.29 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: 5/09/19

INSPECTION DATES: 5/05/19, 5/06/19, & 5/08/19

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 March 28, 2019 and an application was made to the Zoning Board of Appeals on April 10, 2019.
2. Property received a Letter of PreExisting Use on July 20, 1992, vesting zoning as Residence A, which may conform to the dimensional requirements of Residence B per TB Resolution #243 dated March 21, 1989.
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. Two-story frame dwelling with attached garage (24.2' x 27.2')
    - ii. Covered wood porch (27.2' x 7.3')
    - iii. Frame shed (11.9' x 8.5')
    - iv. Two plastic sheds (both 8' x 6') – TO 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 subject parcel is larger than most parcels in the immediate neighborhood and additions are in keeping with the character of the surrounding area.
2. The requested variance is not substantial setbacks are more conforming than many neighboring properties.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the lots are undersized for the current zoning use district; as such, any additions or alterations will require relief from this board.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district because the neighboring properties are developed in a similar manner and the proposed expansion is in keeping with the character of the community.
5. The alleged difficulty that the property owner is experiencing was not self-created the lots in the area are undersized based on current zoning, thereby requiring property owners seeking additions/modifications to seek relief from this board.

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: AYE**  
**MRS. WORTHINGTON: AYE MR. WITTMEIER: AYE**  
**MR. MCLAUGHLIN: AYE**  
**This determination X was \_\_\_ was not**  
**therefore duly adopted**

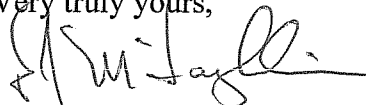
Based upon the foregoing, the following area variance is **GRANTED** and, if granted, is subject to the following conditions which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

**NO CONDITIONS**

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.

Dated: 5/23/19

Very truly yours,



Fred McLaughlin, Chairman  
ZONING BOARD OF APPEALS