



GRANTED

TOWN OF RIVERHEAD
DETERMINATION OF THE ZONING BOARD OF APPEALS
2nd EXTENSION

APPEAL NO: 2017-010

APPLICANT/PROPERTY OWNER: Owner: Timothy Murphy
Applicant: Robert Stromski, PO Box 1254, Jamesport, NY 11947

RELIEF SOUGHT: Area Variance(s)

For variances to and/or relief from the provisions of Chapter 301 Section 165 where the proposed building lot coverage is 9.5% of the lot area where the maximum is 8%, the proposed floor area ratio is 0.18 of the lot area where the maximum permitted is 0.15, the proposed front yard setback is 59.5 feet where the minimum required is 100 feet, the proposed side yard setbacks are 10 feet and 13.3 feet where the minimum required is 30 feet, the proposed combined side yard is 23.3 feet where the minimum required is 60 feet, and the proposed rear yard setback is 95 feet where the minimum required is 100 feet.

LOCATION: West Main Street, Riverhead SCTM#: 600-119-2-8

ZONING DISTRICT: Riverfront Corridor (RFC)

DATE OF HEARING: March 9, 2017

MR. MCLAUGHLIN: This appeal was granted as sought on March 9, 2017, thus expiring March 9, 2018. First extension was granted on February 22, 2018, thus expiring March 9, 2019. Robert Stromski did request in correspondence dated March 1, 2019 and received on March 7, 2019, a one year extension.

Therefore, I move that the time period of the above cited determination be extended to March 9, 2020 as per Chapter 105, Section 105-8 (D) of the Code of the Town of Riverhead, nunc pro tunc.

The motion was duly adopted by all members present.

- MR. WITTMEIER: AYE
- MR. SEABROOK: AYE
- MR. BARNES: AYE
- MS. WORTHINGTON: AYE
- MR. MCLAUGHLIN: AYE

I hereby certify that the foregoing is a true copy of a motion duly adopted on the 14th day of March 2019, and of the whole thereof.

Dated: 3/25/19

Very truly yours,

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2018-054

APPLICANT/PROPERTY OWNER: Joseph Calabrese, 284 President St, Brooklyn, NY 11231

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 15 A(1)(c) where attached outdoor shower is 5.67 feet from the property line and minimum required is 10 feet; 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.

LOCATION: 28 Beach Road, Laurel

SCTM#: 600-71-2-16

ZONING DISTRICT: Residence B-40 (RB40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 12,573 sq. ft. or 0.29 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: 11/08/18, 1/10/19, 3/14/19

INSPECTION DATES: 11/3/18, 11/5/18, 11/6/18

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 September 27, 2018 and an application was made to the Zoning Board of Appeals on October 22, 2018.
2. Updated site plan received on January 9, 2019; denial from Building Department updated on January 9, 2019 to reflect removal of pool variance.
3. Revised plans received on February 7, 2019; after review, it was determined maximum lot coverage must be corrected. Final revision of plans received on February 21, 2019 correcting lot coverage and removing one shed; updated denial issued, correcting lot coverage and demonstrating removal of one existing shed.
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 improved with the following structure(s):
 - i. One-story dwelling with front deck

- ii. Two frame sheds
- iii. Detached garage (cabana building)
- iv. Outdoor shower

5. Property received a Letter of PreExisting Use on October 31, 1995, vesting zoning as Residence C.

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. At a public hearing held on November 8, 2018, the following testimony was offered:
 - a. Gerald Buck, owner of 12 Beach Road, was present to question the application. He believes the records show a Certificate of Occupancy around 2007 for an altered garage with storage above. No mention of the deck or a way to get a car in, but it was given a C/O with the caveat that there would be no insulation and no sheetrock and minimum electric.
 - b. Then, it was sold to the Calabrese family, and as he submitted in his letters, there was an immediate problem with transient rental. The garage has a kitchen and a bathroom.
 - c. Mr. Wittmeier asked if the building had ever been rented to which Mr. Calabrese said it had not, not once. Mr. Barnes asked if it was on BRB to which Mr. Calabrese said it was not. Mr. McLaughlin asked about the property as a whole; had it ever been rented? Mr. Calabrese answered that it had. Mr. Barnes asked about the main house; he wanted clarification that the front house had been rented but not the back building. Mr. Calabrese confirmed that was correct. The back structure has never been rented. Mr. Barnes asked if he had the house listed on BRB to which Mr. Calabrese replied yes.
 - d. Mr. Barnes asked if Mr. Calabrese is going to live there or if this is going to be a rental. Mr. Calabrese stated, this is their summer home. Mr. Barnes asked when he rents it to which Mr. Calabrese responded they rent it when they can't go.
 - e. Mr. Barnes asked if he had rental permits to which Mr. Calabrese answered that he pays taxes on the rentals and they submit all of their income to the county; his wife takes care of it. Ms. Thomas asked if that was hotel tax to which Mr. Calabrese was not certain. Ms. Thomas stated that the minimum rental period in the Town of Riverhead is 30 days; you cannot rent for any less than that. Mr. Barnes and Mr. McLaughlin reiterated that you cannot rent it out for a week or a weekend.
2. The board determined they would conduct a site visit to inspect the inside of the garage/cabana. Mr. Barnes inspected the site, with the applicant and owner, on December 12, 2018 and verified there was no existing kitchen in the structure.
3. At a public hearing held on January 10, 2019, the following testimony was offered:
 - a. Ms. Thomas stated, Mr. Calabrese, we received...the board received a letter dated January 9, 2019 from Gerald Buck regarding the application, and just indicating, amongst a lot of other things, that the house has been rented on BRBO on kind of a regular basis, for vacation rentals. I was wondering if you could elaborate on that, or if you would like to respond to that because I think, as we discussed the last time, you were made aware that the Town of Riverhead rules don't permit rentals less than thirty days and require a permit, and I think you indicated that you hadn't been aware of that. Mr. Calabrese stated, that is correct.
 - b. Ms. Thomas later asked, so, would you object to the board conditioning your approval on the preclusion of that type of rental, you know without a permit? It would basically say that you agree to comply with the Town Code which is thirty day rentals and requires a permit. Mr. Calabrese said yes, I do agree.
4. At a public hearing held on March 14, 2019, the following testimony was offered:

- a. Gerald Buck addressed the board and read a letter he submitted 3/14/19 via email. His correspondence stated that he had no objection to the variance with the provision that Mr. Calabrese abides by the rental code.
5. The variance sought would not produce an impact on adjacent properties or the neighborhood as most adjacent properties are similar in size and design; the proposed addition and deck will not negatively impact the neighborhood.
6. The requested variance is not substantial because the proposed addition has a modest intrusion into the permitted setbacks. Existing shed and shower are in place and have had no negative impacts.
7. The benefit sought by the applicant cannot be achieved by some alternative means because the rear yard portion of the property represents the only feasible location for the deck as accessed from the dwelling. The addition replaces a deck and is to renovate and expand the kitchen and living areas.
8. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the proposed addition is to be constructed to NYS code with little impact outside of required setbacks.
9. The alleged difficulty that the property owner is experiencing was self-created as the proposed addition increases the nonconformity; 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

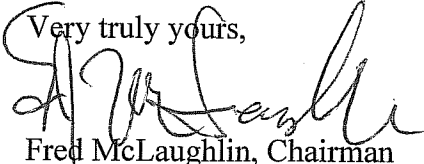
**This determination X was ___ was not
therefore duly adopted**

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

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: 3/25/19

Very truly yours,

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2019-006

APPLICANT/PROPERTY OWNER: Leszek Fabiszewski, 61 Sylvan Ave, Flanders, NY 11901

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 222 E where roofed-over porch addition increases gross floor area within a required front yard setback of a preexisting non-conforming dwelling, representing an increase in degree of nonconformity which is not permitted.

LOCATION: 821 Northville Turnpike, Riverhead

SCTM#: 600-109-1-6.1

ZONING DISTRICT: Residence A-40 (RA40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 184,013 sf or 4.22 acres. Minimum lot area is 40,000 square feet; minimum lot width is 150 feet; maximum impervious surface 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: March 14, 2019

INSPECTION DATES: March 9, 10, 11, & 13, 2019

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

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

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

HISTORY/PROPERTY FACTS

1. A denial letter was sent from the Building Department on December 19, 2019 and an application was made to the Zoning Board of Appeals on January 29, 2019.
2. Property received CAC approval (February 2019) for removal of existing detached garage and construction of new garage and deck.
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
 - ii. Detached garage (to be removed)
 - iii. Wood deck

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 property is isolated, a significant distance from the closest neighborhood dwellings, and it is screened from the Kmart Development to the west.
2. The requested variance is not substantial because the porch is 35 feet from the front property line while the setback for existing dwelling is 24 feet.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the location represents the only feasible area, given the position of the dwelling on the property and ingress/egress location.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as it is situated as an attachment to the dwelling in a location that will not impact or adversely affect the environment, given its distance from wetland areas.
5. The alleged difficulty that the property owner is experiencing was self-created as this application considered legalization of existing roofed-over porch; however, that fact does not prohibit this board from granting the relief sought.

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**

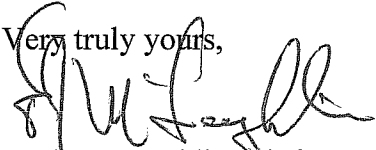
**This determination AYE was ___ was not
therefore duly adopted**

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: 3/25/19

Very truly yours,

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS