

ZONING DISTRICT: Residence B-40 (RB40)

DATE OF HEARING: July 26, 2018

MR. MCLAUGHLIN: This appeal was granted as sought on July 26, 2018. The subject determination was challenged by an Order to Show Cause, and a stay of all proceedings was entered which precluded the applicant from commencing construction pursuant to the variance relief granted. On July 26, 2019, a decision was rendered dismissing the action. In correspondence dated March 9, 2020 Martin Finnegan, attorney for the applicant, did request a one year extension on Appeal 2018-022 from the date the Supreme Court's decision was entered by the Suffolk County Clerk, August 20, 2019.

Therefore, I move that the time period of the above cited determination be extended to August 20, 2020 as per Chapter 105, Section 8 (D) of the Code of the Town of Riverhead.

The motion was duly adopted by all members present.

MR. WITTMEIER	AYE
MR. SEABROOK:	AYE
MR. BARNES:	AYE
MR. GAZZILLO	AYE
MR. MCLAUGHLIN	AYE

I hereby certify that the foregoing is a true copy of a motion duly adopted on the 12th day of March 2020, and of the whole thereof.

Dated:

Very truly yours,

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS

PUBLIC HEARINGS

Appeal No. 2020-007 – Wieslaw Dobrzynski – 34 Mill Brook Lane, Riverhead – SCTM No. 600-131-1-6 – RA40 Zoning - for variances and/or relief from Chapter 301 Section 11 where impervious surface is 41.9% and maximum permitted is 15%; where front yard setback is 35.2' and minimum required is 50'; where east side yard is 18.1' and west side yard is 9.8' and minimum required is 25'; where combined side yard is 27.9' and minimum required is 55'; and Section 11 where a lawfully preexisting nonconforming building or structure or a building or structure which lawfully exists on a nonconforming lot may be enlarged, altered, reconstructed or repaired, provided that degree of nonconformity is not thereby increased, and proposal is to construct a new dwelling on an existing 10,815 sf lot and minimum lot size required is 40,000 sf. ADJOURNED from 2/27/20

Robert Stromski, architect and representative for the applicant stated, I do have some additional mailings. Wieslaw Dobrzynski, owner, 23 Jones Road, Hampton Bays was present. Mr. Stromski stated, what you have here is an application for construction of a single family residence on a lot that used to have a single family residence; I believe it was either a trailer or a pre-fab mobile home on the property. The asphalt driveway and the detached garage existed with that original residence. The plan is to maintain the detached 1.5 car garage and the driveway and essentially, the proposal is to place a single story residence with three bedrooms basically in the same spot where the trailer was. When you look at the degree of relief that's being sought, it seems to be a lot based on the new zoning from the Master Plan, but one of the things that was done with the layout of the property is the setbacks tend to be somewhat in conforming with the old Res C zoning that we used to go by where you had a minimum of 10 and 15 on the other and a front yard of 40. So, we were trying to, with the placement of the

property, to go with setbacks that were somewhat common back in the day before the Master Plan was enacted. Beyond that, the impervious surface is basically due to the fact that the asphalt driveway's there. When you take into account the footprint of the detached garage with the single family residence you have the impervious surface, and the lot is very small, and hence creates the impervious surface relief that we're requesting. The property is served by public sewer and public water, so we feel the development of this parcel is pretty much in character with the surrounding neighborhood, and there wouldn't be any detriment to the surrounding communities with the grant of relief being requested. If you have any other questions, I'd be more than happy to answer. The owner's here to answer any questions you may have directly at him. Mr. Barnes asked, is it going to be stick built? Mr. Stromski replied, yes. He's planning on framing it on site. Mr. Wittmeier asked, Stromski, is there a second floor in the garage? Mr. Stromski replied, it's constructed as a single story where the roof plates are on. It's a high roof pitch, so I believe there is some space for like a loft, but I don't believe...nothing's habitable. It's just a storage loft. Mr. Wittmeier responded, thank you. Mr. Stromski added, and I think the intention is to...once the house is done to reside the detached garage and basically raise the quality of the property. Mr. McLaughlin asked the board, anything else? Mr. Seabrook replied, no, sir. I'm good. Mr. McLaughlin asked, anyone else in the audience to be heard on this matter? Mr. Stromski added, also just before, I have pictures of the postings. We also did post another poster for this meeting, and I also just want to thank the board for accommodating the adjournment of the meeting.

A motion was made by Mr. Gazzillo and seconded by Mr. Barnes 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
Mr. Gazzillo	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-007

SUMMARY: Proposed Single Family Dwelling

APPLICANT/PROPERTY OWNER: Wieslaw Dobrzynski, 23 Jones Road, Hampton Bays, NY 11946

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 11 where impervious surface is 41.9% and maximum permitted is 15%; where front yard setback is 35.2' and minimum required is 50'; where east side yard is 18.1' and west side yard is 9.8' and minimum required is 25'; where combined side yard is 27.9' and minimum required is 55'; and Section 11 where a lawfully preexisting nonconforming building or structure or a building or structure which lawfully exists on a nonconforming lot may be enlarged, altered, reconstructed or repaired, provided that degree of nonconformity is not thereby increased, and proposal is to construct a new dwelling on an existing 10,815 sf lot and minimum lot size required is 40,000 sf.

LOCATION: 34 Mill Brook Lane, Riverhead

SCTM#: 600-131-1-6

ZONING DISTRICT: Residence A-40 (RA40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 10,815.65 sq. ft. or 0.248 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; accessory in side yard setback is 20 feet; accessory in rear yard setback is 20 feet; accessory setback to side/rear street line is 50 feet.

DATE OF HEARING: 2/27/2020, 3/12/2020 INSPECTION DATES: 3/5/2020, 3/7/2020, 3/9/2020

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 the Town's environmental planner 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. Property received a Certificate of Occupancy (ZB 11720) dated October 20, 1988 (duplicated October 12, 2017) for two car detached garage.
2. Property received a Certificate of Compliance (17-0122) dated March 17, 2017 for demolition of a mobile home with sunroom and addition and shed.
3. Application was made to the Building Department on June 18, 2019 to construct a single family, one story residence of 1,406 sf with 3 bedrooms, 2 baths, and covered porch on a site with an existing 1.5 story wood framed garage.
4. A denial letter was sent from the Building Department on December 31, 2019 and an application was made to the Zoning Board of Appeals on February 6, 2020.
5. 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 and one-half story frame garage

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 setbacks for side, rear and front are similar to the Residence C zoning that existed in the town prior to the enactment of the Master Plan rezoning. These setbacks are common for parcels of this size throughout the community.
2. The requested variance is not substantial because the lot is undersized, preexisting nonconforming, and due to the current lot, a normal layout of a single family three bedroom residence and detached garage with an asphalt driveway would exceed impervious surface regulations.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the size of the lot and existing detached garage prohibits any alternative means.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the development of this property is similar to the existing single family residence prior to its demolition. Proposed development is in keeping with the character of the neighborhood.

5. The alleged difficulty that the property owner is experiencing was not self-created as any development on the parcel would require relief from impervious surface due to the prior development of the property. The size of the lot dictates the requirement of such variances.

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

THE VOTE

**MR. SEABROOK: AYE MR. BARNES: AYE
MR. GAZZILLO: 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

Appeal No. 2020-006 – Dean DeMar – 712 Hubbard Avenue, Aquebogue – SCTM No. 600-85-3-76.1 – RA40 Zoning - for variances and/or relief from Chapter 301 Section 9 A(1)(a) where proposed garage is located in front yard which is not permitted; and Section 14 C where proposed future conversion of space over detached garage for habitable recreation space and bathroom is deemed to not be a customary accessory use to principal single-family dwelling use.

Dean DeMar and Josephine DeMar, 30 Ridgewood Road, Hampton Bays, property owners, were sworn in. Mr. DeMar stated, we bought the property just recently from Mr. Klatt. Actually, we own three of the parcels. We actually were unaware that we could not put the garage in the front yard. Our surveyor missed it; I missed it completely, and we're hoping to get some relief on that. I also have an old map that doesn't show on our new survey, but on the side where the nursery is, a 50 foot buffer that we're not allowed to build on which we have no problem with that, but it does restrict us toward the west side of the property, and also on the east side of the property there is quite a few maple trees and other different types of trees that are well over 100 years, big trees, and we'd like to keep them. So positioning the garage in the front yard appeals to us, obviously, but the other way we'd have to do it is cut down some trees in order to get...the other option is to move it in the backyard. I can present that also. I also have photos of the lot if you'd like to see. Mr. Seabrook stated, well, it's certainly a very private lot. Mr. DeMar replied, it is. That's why we purchased the other two. We're not gonna build on them. Mr. Seabrook responded, oh, really? What do you plan on doing with them? Mr. DeMar replied, we're gonna put some trees, exotic trees, different types of stuff and let it be. Nature, you know? I have two daughters. I mean, theoretically down the road, who knows. Mr. Barnes replied, well, that's a good plan. Mr. DeMar added, yeah, well, the plan now is not to do anything with it, just utilize the last lot for ourselves. We come from the south shore, and we found this property, and we want to retire here. We love the privacy. It's quiet, peaceful. Mr. Barnes stated, very nice situation. Mr. DeMar added, we're very happy with it. Mr. Barnes stated, alright, so tell me about the garage. Mr. DeMar stated, the garage...I always wanted a big garage. The house has two cars, two car garage, but I like the idea of being able to put my tools. I build. I'm gonna be building for a couple more years, but I put my tools, my truck, whatever equipment I can put in there. It's a lot easier to have it in the front yard where we can access it instead of... the other option is to have it all the way in the back. The property does slope down; there's about an 8 foot difference in grade. Mr. Barnes asked, is there a proposed habitable space upstairs? Mr. DeMar stated, what we did is we went through Health Department, and we got an approval for the additional septic just in case in the future, I don't know what that's gonna bring, if we put an office up there. The Chief Building Inspector, who I know, Mark, he said just put down a rec room, which is something that we might

consider also. But, I wanted to leave our options open. At this point we were thinking about using it as an office, but that's down the line. Down the road. Mr. Barnes asked, so, does your application for the Building Department state that that's habitable space, or not? Mr. DeMar replied, our application right now...well, we have two applications pending. So, right now, I think we have it as proposed rec room. Mr. Wittmeier noted, habitable recreation space. Mr. DeMar confirmed, habitable recreation space, yes. Mr. Barnes replied, okay. So, you're application has that? Mr. DeMar responded, yes. Mr. McLaughlin asked, Frank, you got anything? Mr. Seabrook answered, no, sir. Does anybody in the audience have anything to say? The audience members replied, no, we just wanted to hear what was going to happen. We're your neighbors. Mr. DeMar stated, nice to meet you. I can show you a survey if you want to see what we have planned. (Mr. DeMar presented the survey to his neighbor.) Mrs. DeMar added, we didn't realize that we couldn't have...we're within the setbacks in the front, on the sides, everything. We didn't realize you couldn't have that garage... Mr. DeMar clarified, an accessory structure in the front yard. Mrs. DeMar continued, right, in the front. We figured if we were within the setbacks we were okay. Mr. Barnes stated, so essentially you're seeking relief also for the space over the garage as habitable space and recreational space and obviously a bathroom because you got Health Department approval for that. Mr. DeMar stated, right, right, yeah. We wouldn't put the bathroom in now. I already spoke with Mike, the building inspector. We would just plumb it down below, just going into the garage itself and cap it off. Just leaving it for the future. Mrs. DeMar stated, so, basically, he's a builder, and he's gonna have all his tools and machines and whatever in the garage. I really didn't want to have his office where if he has someone come up with their dirty shoes, come into the house. You know what I mean? I wanted to have an area where he can come in with his whatever...if he has to speak with a subcontractor or whatever, he can have an area...you know...not in the house. That's basically what we wanted to do. Mr. McLaughlin noted, I can't blame you for that. Mr. Barnes stated, so you wouldn't object if we put a condition that habitable space would be for personal space and not rented space? No kitchens are to be installed, and it's your residence; that's fine. I have no problem with that, but we'll put that condition on. Just keep in mind that when those conditions are put on and you do decide to make an apartment out of it, it could invalidate your C/O. I just want you to be aware of that. Mrs. DeMar asked, I mean, not that we've thought about doing an apartment. Mr. DeMar added, let's say in the future we ever did want to do an apartment, would that be possible, or... Mr. Barnes replied, I think that's RA40, so it may be possible, but there's an accessory apartment statute. I believe the structure has to exist for three years. And you would have to apply then for that. But, the condition we would want to put on it, that doesn't become an apartment. Mr. DeMar replied, okay. Mr. Barnes asked, Dawn, if you could put the language in for that when the resolution's read? I'd rather approve it and let them go. Mr. Gazzillo asked, how old are the girls? Mr. DeMar replied, 23 and 29. Mr. Gazzillo responded, so they won't be putting bikes in the garage anymore? Mrs. DeMar laughed, one moved back now. (Ms. Thomas prepared a reading with the conditions.) Mr. Barnes added, I can understand you wanting your space. I get it. Put them in the garage. See, we can deny it, and then you don't have to put your mother-in-law up there. (All laughed.) Really, the Town's trying to avoid these multiple family situations. I hope you understand. Mr. DeMar responded, oh, yeah. Definitely. Mrs. DeMar asked, are we kind of tying our hands behind our back for the future if we ever wanted to. Mr. Barnes replied, it will come up as...it's a condition. (To Ms. Thomas) It is living space; I don't want it converted to an apartment with a kitchen. No kitchens. No kitchens. Is that gonna have an outside entrance or an inside entrance? Mr. DeMar replied, inside entrance. Mr. Seabrook joked, nothing's ever easy, right? Mr. DeMar added, down the line, let's say ten years or so, my in-laws do want to move in, and we do want to convert it to an apartment? Mr. Barnes joked, we'd definitely deny you. We're gonna have to see what the laws are then. Mr. DeMar responded, okay. It's nothing...we just...like I said, we just thought about more importantly getting the Health Department in case we want to do something with it. Mr. Barnes replied, I get it.

A motion was made by Mr. Seabrook and seconded by Mr. Barnes that the appeal be granted with the following conditions: that the habitable recreation space shall not be converted to a separate residential unit on the premises. The motion carried by a roll call vote of all members present:

Mr. Barnes	AYE
Mr. Seabrook	AYE
Mr. Gazzillo	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-006

SUMMARY: Accessory Structure in Front Yard

APPLICANT/PROPERTY OWNER: Dean DeMar, PO Box 535, Hampton Bays, NY 11946

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 9 A(1)(a) where proposed garage is located in front yard which is not permitted; and Section 14 C where proposed future conversion of space over detached garage for habitable recreation space and bathroom is deemed to not be a customary accessory use to principal single-family dwelling use.

LOCATION: 712 Hubbard Avenue, Riverhead

SCTM#: 600-85-3-76.1

ZONING DISTRICT: Residence A-40 (RA40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 2.4114 acres or 105,040.584. 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; accessory in side yard setback is 20 feet; accessory in rear yard setback is 20 feet; accessory setback to side/rear street line is 50 feet.

DATE OF HEARING: 3/12/2020

INSPECTION DATES: 3/5/2020, 3/7/2020, 3/9/2020

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 the Town's environmental planner 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. Application was made to the Building Department on December 27, 2019 for two-story dwelling over unfinished basement with cellar entrance, fireplace, home office, roofed over front patio, rear screened porch with attached decks, and roofed over patio off of master suite with deck above. (Permit 20-0235 was issued on March 16, 2020.)
2. Application was made to the Building Department on January 9, 2020 for detached garage with future recreation room above.
3. Application was made to the Zoning Board of Appeals on January 22, 2020, and subsequently, a denial letter was sent from the Building Department on February 18, 2020.
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. Vacant lot

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 property is a private flag lot surrounded by Riverhead Central School District property, a nursery, and several residential properties. Proposed construction is within keeping of the character of the community.
2. The requested variance is not substantial because property is a flag lot. Detached garage in front yard will not be visible from street.
3. The benefit sought by the applicant cannot be achieved by some alternative means because there is a fifty foot unbuildable buffer to the west, and to the east are large maple trees. Rear of the property slopes down and would create a financial burden to import and construct a garage in that location.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as it is residential construction in a residential zoning use district.
5. The alleged difficulty that the property owner is experiencing was not self-created as the property owner must take into account the fifty foot buffer to the west and large, well-established trees to the east. Proposed garage location is logical given the layout of the parcel.

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

THE VOTE

**MR. SEABROOK: AYE MR. BARNES: AYE
MR. GAZZILLO: 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.

CONDITIONS

1. **The habitable recreation space shall not be converted to a separate residential unit on the premises.**

Minutes of February 27, 2020 – 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
Mr. Gazzillo	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

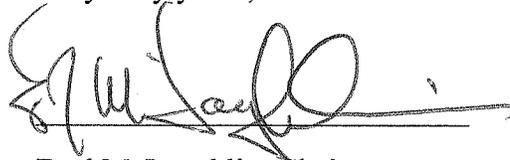
NEXT MEETING DATE – March 26, 2020 at 7:00 PM

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
Mr. Gazzillo	AYE
Mr. Wittmeier	AYE
Mr. McLaughlin	AYE

Approved and Dated: 5/28/20

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred McLaughlin", written over a horizontal line.

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS