



TOWN OF RIVERHEAD

DETERMINATION OF THE ZONING BOARD OF APPEALS

GRANTED
WITH CONDITIONS

APPEAL NO: 2019-056

SUMMARY: Shed Conversion to Snack Bar

APPLICANT/PROPERTY OWNER: 15 Bay Avenue LLC, 111 Broadway, Suite 1503, New York, NY 10006

RELIEF SOUGHT: for an interpretation of Chapter 301 Section 222 A where proposing to convert existing 332.9 +/- sq. ft. storage shed into a snack bar which is an expansion of a preexisting nonconforming use.

LOCATION: 15 Bay Avenue, Aquebogue

SCTM#: 600-87-1-46

ZONING DISTRICT: Residence B-40 (RB40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 39,903 sq. ft. or 0.916 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. 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: 1/9/2020, 1/23/2020, 2/13/2020, Reserve Decision 2/27/2020

INSPECTION DATES: 1/2/2020, 1/4/2020, 1/7/2020

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 as the Commission does not review interpretations.

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)(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. Letter of Pre Existing Use was issued on March 9, 1998 for one story frame motel with detached frame building, ZB2294 for addition to motel (2nd floor, 2 bedrooms), ZB7184 for addition to motel (solarium), ZB7474 for addition to motel (1st floor), ZB11047 for addition to motel (2nd story), ZB13604 for alteration to motel (convert recreation room to suite).
2. Property received Certificate of Occupancy (ZB150454) dated May 20, 2015 for repair and alterations to units 1 through 18.
3. Property received Certificate of Compliance (18-0214) dated March 23, 2018 for bulkhead/dock replace existing bulkheading as per DEC approval 1/8/2013.
4. Property received Certificate of Compliance (19-0043) dated June 19, 2019 for bulkhead/dock (install three 4' x 60' floating docks & six tie off pilings along existing bulkhead with 3' x 14' ramp per CAC dated 10/16/18.
5. Property received Building Permit (19-0636) for commercial alterations and renovations to existing lobby to enclose existing laundry area, hallway to rear of building and new entry door.

6. Application was made to the Building Department on August 27, 2019 to legalize conversion of detached structure to occupied space for snack/refreshment bar for existing hotel.
7. A denial letter was sent from the Building Department on September 18, 2019 and an application was made to the Zoning Board of Appeals on November 15, 2019.
8. 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 motel with deck and roof overhang
 - ii. Roof over concrete slab
 - iii. Frame building (20.3' x 16.4')
 - iv. Bulkhead

FINDINGS: The evidence in the record establishes that weighing the benefit of granting the interpretation request against the detriment of granting the request to the health, safety and welfare of the community and finds as follows:

1. In testimony offered at the January 9, 2020 public hearing, Charles Cuddy, attorney for the applicant testified that the applicant only sought to take a shed that from time to time was used as a dressing room which has always had water running to it and use it as a snack bar as an accessory use to the pre-existing, non-conforming hotel. The structure is pre-existing so the applicant will not be constructing any buildings and therefore will not be increasing any nonconformity.
2. Mr. Cuddy further testified that the products served in the snack bar would be for the exclusive consumption of the motel guests and not open to the public. In addition, he testified that no alcoholic beverages would be served. There would only be a microwave oven in the snack bar to heat small plates.
3. Raymond Rieder, a neighbor, testified that he was not opposed to the application provided there was no alcohol to be served in the snack bar and that it would only be open to guests of the motel. He testified that there were parking problems with the motel on occasion and further advised that the beach in front of the motel is a private beach..
4. At January 23, 2020 public hearing Mr. Rieder expressed concerns of alcoholic beverages being served, customers approaching by boat and utilizing the snack bar as non-patrons of the motel, and traffic in the Ock-A-Bock neighborhood.
5. At February 13, 2020 public hearing Mr. Cuddy assured the board that no alcoholic beverages would be served at the snack bar. Mr. Brent Pelton, owner, was also present and confirmed same and that the only cooking instrument in the snack bar would be a Turbo Chef microwave. The snack bar will only be available to hotel patrons; it will not be open to the public. He further testified that he has been a good neighbor and he voluntarily assisted the association in paying for drainage work in the neighborhood that was the responsibility of the association. .
6. Robert Kenney, Vice President of the Ock-A-Bock Association testified and wished to clarify that no alcohol will be served and that the snack bar could not be converted to a restaurant. Mr. Kenney testified that as long as those conditions were met, that the association would have no issue with the application.
7. Michael Ford, treasurer of the Ock-A-Bock Association he had no objection and that, in fact, he hoped that neighbors could be served at the snack bar.
8. The applicant's testimony at the hearing confirmed that the application was to convert an existing shed building to an accessory snack bar for the purpose of service snacks and non-alcoholic beverages to the guests of the motel. The snack bar will not be open to the public.
9. The conversion of an existing structure from a storage shed to a snack bar is not an expansion of the pre-existing, non-conforming status of the motel provided all conditions set forth in this determination are adhered to.

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: ABSTAIN MR. WITTMEIER: ABSENT
MR. MCLAUGHLIN: AYE

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

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

CONDITIONS

1. The shed building that will be converted to a snack bar shall not contain any cooking equipment other than a microwave oven.
2. There shall be no expansion of the structure of the building within which the snack bar will be located.
3. No alcohol shall be served from the snack bar building.
4. The snack bar shall be exclusively for the use of patrons of the motel and not open to the general public.
5. Conditions 1-4 above shall be contained in the Certificate of Occupancy for the snack bar when renovations are completed.

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: 3/6/2020

Very truly yours,



Fred McLaughlin, Chairman

ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-003

SUMMARY: Proposed single family dwelling

APPLICANT/PROPERTY OWNER: Applicant: 153 Herricks LLC, 87 Sandy Ct, Riverhead; Owner: Ralph Passantino, 18 4th St, Wading River, NY 11792

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 31 where existing lot is 14,774 sf and minimum lot size required is 80,000 sf; where proposed front yard setback is 31' and minimum required is 60'; where proposed rear yard setback is 20' (from deck) and minimum required is 75'; where proposed side yard setback is 27.1' and minimum required is 30'; and, where proposed impervious surface coverage is 16.1% and maximum permitted is 15%.
**Note: deck to be removed from plans; rear yard setback to be 37' from house to rear property line.

LOCATION: 4th Street, Wading River

SCTM#: 600-33-4-42.1

ZONING DISTRICT: Residence B-80 (RB80)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 14,774 sq. ft. or 0.34 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; accessory in side yard setback is 25 feet; accessory in rear yard setback is 20 feet; accessory setback to side/rear street line is 60 feet.

DATE OF HEARING: 2/13/2020, 2/27/2020

INSPECTION DATES: 2/10/20, 2/11/20, 2/12/20, 2/13/20

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(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. Application for Building permit was submitted to the Building Department on January 3, 2020 for a single family dwelling on the vacant lot.
2. A denial letter was sent from the Building Department on January 9, 2020 and an application was made to the Zoning Board of Appeals on January 10, 2020.
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. 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. At February 13, 2020 public hearing resident of property on 3rd Street, Dave Rale, addressed the board. Resident shares the rear yard property line with the applicant and expressed concerns of the excavation that will take place on the property. He was concerned of the integrity of the cliff between the two properties and how he believed

excavation could compromise his home, particularly the construction of the rear deck. The board members adjourned the hearing, requiring the builder to appear on February 27, 2020 to verify the proposed construction.

2. Based upon representation at February 27, 2020 hearing, Adrian Koniar, builder, testified that the construction of the dwelling would not affect the cliff between properties, and excavation piles will be set on sides and front of property; however, to provide peace of mind to concerned neighbor, the applicant represented under oath that he no longer proposes construction of deck. Mr. Rale, adjoining property owner, did not appear at this hearing. The board members expressed their satisfaction with the proposed construction.
3. The variance sought would not produce an impact on adjacent properties or the neighborhood as the proposed dwelling is in keeping with the character of the residential community. Furthermore, testimony offered by the builder ensured construction will only affect the subject parcel and that the deck proposed originally will not be constructed.
4. The requested variance is not substantial because it is presently a residential community with preexisting nonconforming lots.
5. The benefit sought by the applicant cannot be achieved by some alternative means because due to the undersized preexisting nonconforming lot, construction of any moderately sized home would require relief from this board.
6. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the builder is aware of the hill in the rear of the property and testified that it will not be compromised. All construction must follow current building codes and Health Department approval will be required.
7. The alleged difficulty that the property owner is experiencing was not self-created as the lot is preexisting nonconforming.

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

THE VOTE

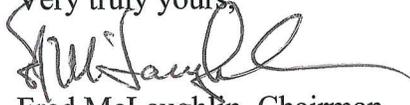
MR. SEABROOK: AYE MR. BARNES: AYE
MR. GAZZILLO: ABSTAIN MR. WITTMEIER: ABSENT
MR. MCLAUGHLIN: AYE
This determination X was ___ was not
therefore duly adopted

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.

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: 3/10/2020

Very truly yours,

Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-004

SUMMARY: Legalize Front Porch/Deck

APPLICANT/PROPERTY OWNER: Applicant: Richard Warden, 123 North Sea Rd #691, Southampton, NY 11969 Owner: Michael Regolizio, 22 Risa Court, Flanders, NY 11901

RELIEF SOUGHT: for variances to and/or relief from Chapter 301 Section 17 where front yard setback is 38.2' and minimum required is 50'.

LOCATION: 41 Industrial Boulevard, Riverhead

SCTM#: 600-121-3-8

ZONING DISTRICT: Residence B-40 (RB40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 11,386.89 sq. ft. or 0.26 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. 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

INSPECTION DATES: 2/26/2020, 2/27/2020

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(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. Property received Certificate of Occupancy (ZB522) dated July 27, 1967 for single family residence with attached garage.
2. Application was made to the Building Department on November 7, 2019 for a building permit to legalize existing entry stoop.
3. A denial letter was sent from the Building Department on December 5, 2019 and an application was made to the Zoning Board of Appeals on January 22, 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. One story frame dwelling with front porch/deck
 - ii. Concrete patio
 - iii. Shed (10' x 10.2')

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 not produce an impact on adjacent properties or the neighborhood as the slight encroachment of the front porch does not impede views or impact properties and is in keeping with the character of the residential community.
2. The requested variance is not substantial because the lot is undersized, preexisting nonconforming and would require relief from this board for even minor additions.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the porch already exists. Even if demolished, steps would have to be constructed for access to the dwelling.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as it is attached to the home and has existed without any effects on the environment or neighborhood.
5. The alleged difficulty that the property owner is experiencing was not self-created as the porch existed prior to the current owner purchasing the home.

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

THE VOTE

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

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: 3/6/2020

Very truly yours,



Fred McLaughlin, Chairman

ZONING BOARD OF APPEALS