



GRANTED

TOWN OF RIVERHEAD
DETERMINATION OF THE ZONING BOARD OF APPEALS
FIRST EXTENSION

APPEAL NO: 2018-022

APPLICANT/PROPERTY OWNER: Overlook Drive, LLC (Edward Hocker), PO Box 451, Aquebogue, NY 11931

RELIEF SOUGHT: Area Variance(s)

For variances to and/or relief from Chapter 301 Section 17 where the proposed impervious surface coverage is 15.1% of the lot and the maximum permitted is 15%; proposed front yard setback is 23 feet where the minimum required is 50 feet; proposed side yard setbacks are 13 and 15 feet where the minimum required is 25 feet; and the proposed combined side yard is 28 feet where the minimum required is 55 feet.

LOCATION: 254 Overlook Drive, Aquebogue

SCTM#: 600-113-1-11

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: 3/12/2020

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



# TOWN OF RIVERHEAD

## DETERMINATION OF THE ZONING BOARD OF APPEALS

**GRANTED**  
WITH CONDITIONS

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. WITTMER: AYE  
MR. MCLAUGHLIN: AYE

This determination X was     was not  
therefore duly adopted

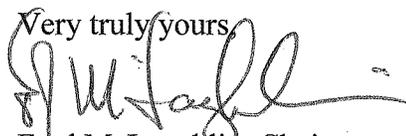
Based upon the foregoing, the following area variance is GRANTED and, if granted, is subject to the following conditions which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

#### CONDITIONS

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

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: 5/28/20

Very truly yours  
  
Fred McLaughlin, Chairman  
ZONING BOARD OF APPEALS



# TOWN OF RIVERHEAD

GRANTED

## 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**

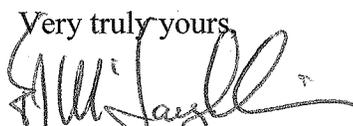
**This determination X was \_\_\_ was not  
therefore duly adopted**

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**

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: 5/28/20

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