



TOWN OF RIVERHEAD

DETERMINATION OF THE ZONING BOARD OF APPEALS

GRANTED
WITH CONDITIONS

APPEAL NO: 2020-018

SUMMARY: Proposed Replacement of Existing Single Family Dwelling

APPLICANT/PROPERTY OWNER: Annette Renner, 245 E. 63rd St, 710, New York City, NY 10065

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 11 where existing lot is 7,500 sf and minimum lot size required is 40,000 sf; where existing lot width is 75' and minimum required is 150'; where proposed front yard setback is 26' and minimum required is 50'; where proposed side yard setback is 17.9' and minimum required is 25'; where proposed combined side yard is 37.9' and minimum required is 55'; where proposed rear yard setback is 30' and minimum required is 60'; and where proposed impervious coverage is 19.4% and maximum permitted is 15%.

LOCATION: 26 Pirate Street, Riverhead

SCTM#: 600-13-3-26

ZONING DISTRICT: Residence A-40 (RA40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 7,500 sq. ft. or 0.17 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: 7/23/20, 8/13/20, Res Dec 8/27/20 INSPECTION DATES: 7/18/20, 7/20/20, 7/23/20

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. The property is improved with a preexisting single family residence which was constructed in approximately 1940. The property has received the following certifications: Certificate of Occupancy (3650 from permit ZB4763) dated August 4, 1978 for addition to residence; Certificate of Occupancy (15666 from permit ZB21390) on December 19, 2000 for addition and alteration to residence.
2. Application submitted to Building Department on March 6, 2020 for demolition of existing single family dwelling for the purpose of constructing a new single family residence on the property.
3. A denial letter was sent from the Building Department on March 9, 2020 and an application was made to the Zoning Board of Appeals on June 4, 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 house with wood deck
 - ii. Shed

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 before this board on July 23, 2020 which was held virtually as mandated by the Emergency Order of the Town's Emergency Operations Coordinator Police Chief David Hegermiller, the applicant experienced technical difficulties communicating via the Zoom teleconferencing application. The board did, however, accept testimony from the public to which Sean Harrigan, Erica Camolich, and Janine Gleusner, all of 20 Pirate Street, participated in. Under oath, Mr. Harrigan and Ms. Camolich expressed their concerns of privacy they believed would be infringed upon by the second floor addition proposed on the new dwelling. Ms. Camolich emphasized that there are "really no two-story houses other than the one you're building," while Mr. Hannigan conveyed concerns of conformity stating he wanted to make sure nothing "would stick out like a sore thumb." The board members recommended Ms. Camolich and Mr. Harrigan review the plans while the hearing was held open until August 27th.
2. Ms. Gleusner voiced concerns of the overall square footage of proposed dwelling to which Mr. Barnes explained setbacks and impervious surface were matters before the board, not square footage. She then expressed objections regarding the side yard setback which is proposed to be 2.9 feet closer to the shared property line than the existing dwelling; Ms. Gleusner believed it will be an invasion of her privacy. Mr. Barnes then encouraged Ms. Gleusner to view the plans online and/or at the Building Department while the hearing is held open until later in the month. Ms. Gleusner agreed.
3. A second public hearing, which also was held virtually via the Zoom teleconferencing application as required by the aforementioned Emergency Order on August 13, 2020 at which the architect representing the application, Kurt Jacobs, participated in. Mr. Jacobs offered testimony and submitted photos and addresses of five existing homes within the neighborhood on Pirate Street, Park Road, and Eight Bells Road that are two-story dwellings. Mr. Jacobs explained that the proposed dwelling has been designed to maintain very similar setbacks as the existing house and therefore have minimal impact on the neighborhood. Mr. Jacobs testified that the proposed home will, in fact, positively impact the community by replacing a seventy year old house with an updated dwelling.
4. Ms. Gleusner, under oath, also offered testimony at the August 13, 2020 public hearing; Ms. Gleusner stated that she received the plans from the town, and she objects to the balcony location on the westerly side of the second story. She explained that the balcony will overlook her yard, kitchen, and driveway and that she is fine with a two-story home but does not want a balcony on that side of the home; "it doesn't make sense." Mr. Jacobs then offered to reposition the house 2.9 feet further east to maintain the existing setback, thereby encroaching further on the easterly property. Ms. Gleusner subsequently requested the applicant remove the balcony on that side of the dwelling entirely. Mr. Jacobs asked the board and Ms. Gleusner if they were amenable to his client planting Green Giant arborvitae along the property line to provide screening and privacy; Ms. Gleusner approved of the Green Giants but requested inground sprinklers and a copy of the landscape plan.
5. Board members agreed that house should remain as proposed and not be repositioned to the east as the proposed layout is more centrally located on the parcel; arborvitae should be used to provide privacy and screening from the balcony. A revised plan indicating same to be submitted prior to the reserve decision on August 27, 2020.
6. 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 community; several similar sized two-story

homes exist in the neighborhood. Privacy concerns of the westerly adjacent property have been addressed by the conditions within this determination.

7. The requested variance is not substantial because the lot is undersized, preexisting nonconforming and would require relief from this board for even minor alterations.
8. The benefit sought by the applicant cannot be achieved by some alternative means because any modification to the footprint of the home requires relief due to the undersized nature of the lot.
9. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as it is a single family dwelling in a residential neighborhood, centrally located on the lot with a proposed footprint similar to the existing dwelling.
10. The alleged difficulty that the property owner is experiencing was not self-created as the difficulty is solely due to the nonconforming lot size.

The motion was made by Mr. Wittmeier 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**

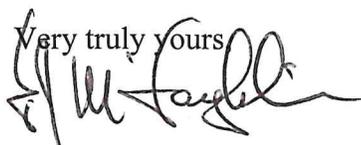
Based upon the foregoing, the following area variance is **GRANTED** and, if granted, is *subject to the following conditions* which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

CONDITIONS

1. **The applicant is required to plant 4 Green Giant Arborvitae trees as set forth in the attached plan to provide screening and privacy between the applicant's property and the neighboring property located at 20 Pirate Street. These Green Giant Arborvitaes will be installed and inspected prior to the issuance of the applicant's Certificate of Occupancy. The applicant agrees to replace these plantings for 2 years following the issuance of the Certificate of Occupancy should the trees not survive for whatever reason.**

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: 9/4/2020

Very truly yours


Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-020

SUMMARY: Updated LPEU for Three Family Dwelling

APPLICANT/PROPERTY OWNER: 204 Maple Ave LLC, 120 Fishel Ave, Riverhead, NY 11901

RELIEF SOUGHT: for an interpretation of Chapter 301 Section 157 where three-family dwelling proposed and multi-family dwellings are not permitted.

LOCATION: 204 Maple Avenue, Riverhead

SCTM#: 600-129-2-26

ZONING DISTRICT: Downtown Center 5 (DC-5)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately 6,999 sq. ft. or 0.161 acres. Minimum lot area is 5,000 square feet; minimum lot width at front street is 50 feet; maximum building lot coverage with sewer is 35%; maximum impervious surface is 60%; maximum height of buildings is 35 feet; maximum floor area ratio with sewer is 0.70; minimum front yard depth is 15 feet; minimum depth for each side yard for interior lots is 10 feet; minimum combined depth for 2 sides for interior lots is 20 feet; minimum depth of side yard facing side streets of corner lots is 10 feet; minimum combined depth of side yard for 2 sides of corner lots is 20 feet; minimum rear yard depth is 25 feet.

DATE OF HEARING: 8/27/2020

INSPECTION DATES: 8/17/20, 8/24/20, 8/27/20

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 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 October 31, 1989 (Reconstructed 10/3/2019) for a two-story single-family frame dwelling, concrete block building, and a frame garage.
2. Application was made to the Building Department on February 11, 2020 requesting an updated Letter of Pre-Existing Use to a two-story three-family dwelling over full unfinished basement, roofed-over porch, rear enclosed stairs, concrete block shed, and detached frame garage.
3. A denial letter was sent from the Building Department on June 1, 2020 and an application was made to the Zoning Board of Appeals on June 9, 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. Two-story frame house
 - ii. Roof over wood porch
 - iii. Frame garage (18.6' x 15.7')
 - iv. Concrete block shed (10.1' x 20.1')

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 August 27, 2020 public hearing, Charles Cuddy, attorney for the applicant, testified that a Building Department fire destroyed the original files for this property, and a Letter of Pre-Existing Use, reconstructed on October 3, 2019 based on a 1989 letter, depicts the subject structure as a two-story single family dwelling. Mr. Cuddy explained that this information is factually wrong; this is a three-family dwelling and until very recently was occupied by three families. Historically, the three-family use has been in place for at least forty years. He emphasized the lack of validity of the reconstructed Letter of Pre-Existing Use based on a destroyed file.
2. In support of his testimony, Mr. Cuddy submitted sworn affidavits from Frederic Marsland (207 Maple Avenue) and Gary Graziano (203 Maple Avenue) stating they have lived at their residences for 37 and 36 years, respectively, and confirm 204 Maple Avenue has existed as a three family residence and three separate family groups have inhabited that premises. Additionally, both sworn statements from Mr. Marsland and Mr. Graziano further confirm three families have resided at 204 Maple Avenue during the last two years.
3. Submitted as additional evidence of multi-family dwellings in the neighborhood, Mr. Cuddy provided the board members with printouts of tax assessment maps indicating at least nineteen (19) two-family dwellings, three (3) three-family dwellings, and four (4) multi-purpose/multi-structure dwellings within a 500 foot radius of 204 Maple Avenue.
4. Correspondence dated December 30, 2019 from architect, Jeff A. Zahn, submitted as part of the record, stated that Mr. Zahn performed a field inspection at 204 Maple Avenue on October 1, 2019 to evaluate the apparent condition and use of the property. In his letter, Mr. Zahn certified the dwelling has three (3) separate entrances to individual apartments, each bedroom has a kitchen, living area, bathroom and bedrooms, each apartment has a singular gas meter located in basement, each apartment has a singular electric meter located in basement, a fourth electric meter is identified as "landlord," property tax class is 230 (multi-family), and each apartment has its own USPS mail box. Based on his observations, Mr. Zahn determined the subject residence has been used as a legal three family dwelling.
5. During the public hearing, Zoning Board member, Leroy Barnes, advised that he also had personal knowledge of the history of subject residence existing as a three-family residence.
6. Evaluation of the evidence, sworn testimony and the board's personal knowledge of the subject parcel support the applicant's position that 204 Maple Avenue, Riverhead has extensive history as a three-family dwelling and shall be allowed to maintain the three-family dwelling classification.

The motion was made by Mr. Wittmeier 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

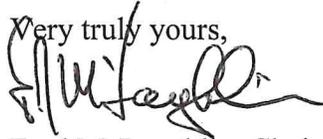
**This determination X was ___ was not
therefore duly adopted**

Based upon the foregoing, the following 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.

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: 9/4/2020

Very truly yours,


Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-023

SUMMARY: Proposed Deck

APPLICANT/PROPERTY OWNER: 1846 Edwards Ave LLC, 23-63 207th St, Bayside, NY 11360

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 11 where proposed impervious surface coverage is 35.1% and maximum permitted is 15%; where front yard setback is 4.5' and minimum required is 50'; where proposed side yard setback is 4.9' and minimum required is 25'; and where proposed rear yard setback is 0.3' and minimum required is 60'.

LOCATION: 1846 Edwards Avenue, Riverhead, Calverton

SCTM#: 600-39-2-17

ZONING DISTRICT: Residence A-40 (RA40)

SIZE OF PROPERTY/REQUIRED SET BACKS: The property is approximately

DATE OF HEARING: 8/27/2020

INSPECTION DATES: 8/17/20, 8/24/20, 8/27/20

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 it is noted that the Town of Riverhead Planning Board reviewed the Chapter 219 permit application, and per Resolution No. 2020-045 dated August 6, 2020 the Planning Board assumed Lead Agency, classified the application 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. Property received the following certifications: Letter of Pre-Existing Use dated October 21, 1986 for single family residence; Demolition permit (ZB 16692) to demolish residence issued on May 3, 1994; Certificate of Occupancy (12305, permit No. ZB16840) dated September 18, 1995 and corrected on November 12, 1996 to replace single family residence and rear deck, vesting zoning as Residence C.
2. Application was made to the Building Department on March 11, 2020 for wheelchair accessibility, adding an elevator shaft and squaring off the home, adding a deck for wheelchair access to the elevator shaft.
3. Chapter 219 application was made to the Planning Department on June 25, 2020 for proposed deck.
4. NYSDEC Tidal Wetlands permit was issued on March 2, 2020, thus expiring March 1, 2025, to remove existing bulkhead, wood walks, decks and steps, install new bulkhead, excavate an area west of the dwelling to create additional parking, construct additions to dwelling and install new steps, walks, and decks.
5. A denial letter was sent from the Building Department on May 27, 2020 and an application was made to the Zoning Board of Appeals on June 23, 2020.
6. 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 house

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. Sean Walter, attorney for the applicant, did submit with the application a letter dated June 17, 2020 from Steve Carrozzo who resides at 1842 Edwards Avenue. Mr. Carrozzo stated in his letter that he is a neighbor of Mr. Brosi and that he reviewed the proposed plans. He expressed no objection to the improvements and looks forward to the home being occupied as it has been vacant for over five years.
2. A second letter from David and Patricia Weissner dated June 19, 2020 was also submitted to the board by Mr. Walter. Mr. and Mrs. Weissner own 1844 Edwards Avenue and stated they reviewed the proposed construction plans, have no objection, and also would like to see 1846 Edwards Avenue occupied.
3. The variance sought would not produce an impact on adjacent properties or the neighborhood as the original house of 810 sq. ft. is similar to other summer cottages in the immediate area. The degree of nonconformity was initially created by the footprint of the existing house which was constructed as far south as possible to maintain distance from the Long Island Sound.
4. The requested variance may seem substantial numerically as it would be a substantial departure from the required dimensions, but case law tells us that when addressing variances, the concern is about the impact of the variance, not so much the mathematical number. This proposed construction is the minimum required to build an elevator, decks and ramps for a wheelchair bound person to access his home enjoy the beach.
5. The benefit sought by the applicant cannot be achieved by some alternative means because without the proposed elevator the owner cannot access his home; the proposed decking will allow for him to enjoy the beach. There are no alternatives available for to benefit the owner that allow for a wheelchair safe environment.
6. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the proposed addition is minimal at 300 sq. ft. and will not create a drain on natural resources; construction of the proposed deck, walks, and steps have received approval from NYSDEC and a Chapter 219 application is under review by the Planning Board to ensure proper engineering standards are adhered to.
7. The alleged difficulty that the property owner is experiencing was not self-created as due to the wheelchair limitations, the owner cannot enjoy or access his home or the beach without relief from this board for the proposed construction. Very few homes located on the beach along the Long Island Sound would meet Mr. Brosi's requirements; most, if not all, of these beachfront homes would require similar variances for construction.

The motion was made by Mr. Gazzillo 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**

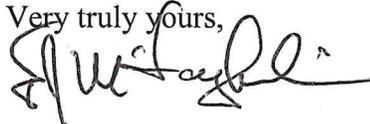
Based upon the foregoing, the following area variance is **GRANTED** and, if granted, is subject to the following conditions which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

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: 9/4/2020

Very truly yours,



Fred McLaughlin, Chairman
ZONING BOARD OF APPEALS



TOWN OF RIVERHEAD

GRANTED

DETERMINATION OF THE ZONING BOARD OF APPEALS

APPEAL NO: 2020-025

SUMMARY: Installation of Gooseneck Light

APPLICANT/PROPERTY OWNER: Riverhead Retail Partners LLC c/o Area Real Estate, 1225 Franklin Ave, Ste. 325, Garden City, NY 11530

RELIEF SOUGHT: for variances and/or relief from Chapter 301 Section 260A where gooseneck lighting is proposed to be mounted at 19.17' to illuminate clock on building tower, and luminaires, exclusive of municipal street-lighting and municipal recreation fields, shall be mounted no higher than 16' from the level ground to the lowest light-emitting part of the fixture.

LOCATION: 245 & 255 West Main Street, Riverhead

SCTM#: 600-128-3-50 & 51

ZONING DISTRICT: Peconic River Community (PRC)

SIZE OF PROPERTY/REQUIRED SET BACKS: SCTM# 600-128-3-50 is approximately 17,933.4 square feet and SCTM# 600-128-3-51 is approximately 20,984 sf. Minimum lot area is 80,000 square feet. Minimum lot width at front street is 200 feet. Maximum building lot coverage without sewer is 20%. Maximum building lot coverage with sewer is 30%. Maximum impervious surface is 40%. Maximum height of buildings is 35 feet. Maximum floor area ratio without sewer is 0.40, and maximum with sewer is 0.60. Minimum front yard depth is 25 feet. Minimum depth for each side yard of interior lots is 15 feet. Minimum combined depth for two sides of interior lots is 30 feet. Minimum depth of side yard facing side street of corner lots is 15 feet. Minimum combined depth for two sides of corner lots is 30 feet. Minimum rear yard depth is 50 feet.

DATE OF HEARING: 8/27/2020

INSPECTION DATES: 8/17/20, 8/24/20, 8/27/20

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(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 the following certifications: Property (SCTM# 600-128-3-50) received certificate of occupancy dated January 24, 2003 for motor vehicle sales lot and motor vehicle repair shop; property (SCTM# 600-128-3-51) received a permit (ZB 14792) dated December 2, 1991 for a used car lot and on November 12, 1993 same property received permit (ZB 16331) for use as a motor vehicle repair shop.
2. Application was made to the NYSDEC and by DEC letter dated June 20, 2019 said application was deemed to be complete. DEC Permit was issued on July 22, 2019.
3. Site plan application was received by the Planning Department on June 28, 2019.
4. Town of Riverhead Conservation Advisory Council approval for property SCTM# 600-128-3-50 & 51 was granted on August 21, 2019 for demolition of an existing car repair shop and construction of 3,062 square foot retail center.

5. Relief was granted by the Zoning Board of Appeals, Appeal No. 2019-029, on September 12, 2019 for variances to and/or relief from Chapter 301 Section 236 A(1) where landscaped area of 9.3 feet in depth is proposed and minimum required is 25 feet.
6. Planning Board granted Final Site Plan approval by Resolution 2020-014 dated February 6, 2020 with condition of approval, item #26, that prior to the installation of the gooseneck light proposed to be mounted at 19'2" to illuminate the clock on the building tower, a variance shall be obtained for exceeding the 16' limit from level ground to the lowest light emitting part of the fixture.
7. Building permit (ZB 20-0400) issued on June 22, 2020 for one-story retail building (3,062 sf) on slab with parking lot, landscaping and associated site improvements including demolition of existing car repair shop.
8. A denial letter was sent from the Building Department on February 24, 2020 and an application was made to the Zoning Board of Appeals on June 30, 2020 (*Note: Covid-19 pandemic shutdown March/April 2020)
9. 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. Properties SCTM# 600-128-3-50 & 51 are presently under construction.

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 use and existing lot size fit into the surrounding community, and height of the one gooseneck light to illuminate the clock will not affect neighboring properties.
2. The requested variance is not substantial because the only request is to increase height of an external gooseneck light by 3'2" higher than permitted, thus illuminating a clock as requested by the Planning Board.
3. The benefit sought by the applicant cannot be achieved by some alternative means because the gooseneck light is to be mounted at a location approved by the Planning Board.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood/district as the light will only illuminate the proposed clock.
5. The alleged difficulty that the property owner is experiencing was not self-created as the clock, as illuminated, is required by the Planning Board Site Plan Approval.

The motion was made by Mr. Barnes and seconded by Mr. Wittmeier, 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**

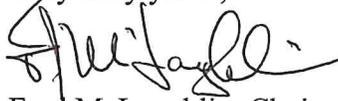
Based upon the foregoing, the following area variance is **GRANTED** and, if granted, is subject to the following conditions which, based upon the evidence presented, will minimize the adverse impacts that the variance would have on the community or district as identified above.

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: 9/4/2020

Very truly yours,



Fred McLaughlin, Chairman

ZONING BOARD OF APPEALS