

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES APRIL 11, 2023

#### **Members**

Jeff Pangburn, Chairman  
Bob Seward III  
Matt Ostiguy  
Scot Strevell  
Tom Hickey

#### **Also Present:**

William Hessney, Attorney  
Alison Lovely, Secretary  
Kateri Rhatigan, Stenographer

#### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Pangburn called the meeting to order and determined a quorum of five (5) members were present.

#### **PUBLIC HEARINGS:**

#### **ZBA Appeal #2023-03–Calamaras– 45 Point View Drive- Area Variance-Deck extension**

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read by Chairman Pangburn
- Rensselaer County Recommendation
- Planning Board Recommendation with supplemental report by Don Panton
- ZBA Area Variance Application Packet
- Drawing showing deck extension with setbacks

Chairman Pangburn asked the applicant to present his appeal. Tom Calamaras stated that he is the second owner of this house, back when the house was set to be built and the utilities were done, the owner wanted the house turned to face the corner, which gave the house a really weird location on the lot. Tom Calamaras stated when he first built the deck, he came in and talked to the building inspector and went over plans on how to build it without needing a variance, so they jogged the deck to meet the eight-foot setback. Tom Calamaras stated that they want to expand the deck due to his expanded family, grandkids, etc. and wants the deck to come out an additional 5' x 12', which leaves the 2-foot side setback. Tom Calamaras stated that if he was to put it in a different location, then he would have to move his air conditioner unit and it would end up under the neighbor's master bedroom window and also the intake and the exhaust for the furnace would also have to be moved. Tom Calamaras stated that also if they moved the deck to the side then he has a bedroom window which the deck would be level with which may cause privacy and security issues which they don't want. Tom Calamaras stated the old deck would be upgraded with new materials as well to make it look a lot better and to make it match. Tom Calamaras stated that there is a buffer of tall bushes on the neighbor's side of the fence of the house that is closest to the deck and the neighbor can't see them and they can't see the neighbor. Chairman Pangburn asked the applicant to point out where the air conditioner unit is that he keeps referring to. Tom Calamaras pointed it out in the picture he had.

•Scot Strevell asked the applicant to point out where the bedroom window is that he was referring to. Tom Calamaras pointed it out in the picture he had.

Chairman Pangburn asked if any of the other Board members had any questions.

•Tom Hickey asked how far it is from the edge of the current deck where the landing for the stairs over to the air conditioner unit. Tom Calamaras stated that it's probably about 3' - 4' the most. He's trying to understand the restriction in adding on in that direction. Tom Calamaras stated that the restriction would be that they would have to increase the height of the new section of the deck to meet the height requirement of the stairs.

Chairman Pangburn stated that the applicant's proposal is not to modify the stairs. Tom Calamaras stated that is correct.

•Tom Hickey asked if the first window that is next to the sliding glass doors is also a bedroom. Tom Calamaras stated that is the kitchen.

•Tom Hickey asked if the deck runs parallel to the property line or is it a greater distance on the next point of the deck from the property line. Tom Calamaras stated that the deck currently all has an 8-foot setback.

•Tom Hickey asked what prevents him from following the property line and extending it further out away from the house. Tom Calamaras stated if he was to come straight out 5 feet that puts the outer edge of the new section 2 feet from the property line. The deck would narrow right down and look like a triangle.

•Matt Ostiguy asked for confirmation that from the farthest part from the house, the deck would only be 3' wide. Tom Calamaras stated that is correct.

•Scot Strevell asked Tom to go over that again.

•Tom Hickey asked if the main driver in this is to just avoid disrupting the current stairs. Tom Calamaras stated that it's not just the stairs, plus disrupting the location where the shed, pool and bedroom window and security.

•Matt Ostiguy stated that Tom mentioned exhaust from the furnace. Tom Calamaras stated that the intake and exhaust to the furnace may have to be moved.

•Matt Ostiguy asked how wide the current deck was. Tom Calamaras stated that it's 8 feet.

Chairman Pangburn mentioned that the Planning Board member's detailed report did mention that the neighbor didn't have any objection to it & asked if Tom talked to the neighbor. Tom Calamaras stated that he did talk to the neighbor.

•Scot Strevell asked if those are their trees. Tom Calamaras stated that they are.

Chairman Pangburn asked if that was their shed right up against the property line. Tom Calamaras stated that is correct.

•Matt Ostiguy asked if he's expanding the pad under the deck. Tom Calamaras stated that he is not.

Chairman Pangburn asked the only audience member, Dave Terpening if he had anything.

•Dave Terpening stated that they asked a lot of good questions.

•Dave Terpening stated that it should only apply to this district, whatever decision is made.

Chairman Pangburn stated that it would only apply to this one property, unless another property came forward with exactly the same situation.

•Dave Terpening stated kudos to the applicant for coming forward and not just building it.

•Dave Terpening stated that if neighbors don't object, there is no issue.

•Dave Terpening stated if he applies to the terms of the permit, it should be approved.

Chairman Pangburn asked the applicant if that if he follows the same angle parallel to the property line that the builder gave you the heads up that it was probably only going to be 4 feet wide at the end. Tom Calamaras stated that he had several builders come through and the original plan was to build it without variances but when they drew it out, they came up with a very small section, instead of 60 sq. ft, they would end up with only 35 to 40 sq. ft.

**Scot Strevell made a motion to close the public hearing.**

**Seconded by Bob Seward. Motion carried by a 5-0 vote.**

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2023-03–Calamaras– 45 Point View Drive- Area Variance-Deck extension**

This is a type II Action-there is no further action necessary.

**WORKSHOP:**

**ZBA Appeal #2023-03–Calamaras– 45 Point View Drive- Area Variance-Deck extension**

**Resolved,** That the Board of Appeals makes the following findings of fact in regards to the side setback of 2 feet for the proposed 5’ x 12’ extension to the existing deck in the rear yard:

1. There will not be an undesirable change in the character of the neighborhood as several properties have small lot sizes and have features including sheds up against property lines within the existing setbacks.
2. There is no other method available to the applicant as other solutions were deemed unfeasible and the physical location of the house on the lot forces the reduced setback for this deck extension.
3. The requested variance is substantial as it is a reduction of 75% of the setback, however that is for one single point of the deck extension and the remaining deck will be a reduction from that smaller setback.
4. The proposed variance will not have an adverse effect on the neighborhood as it is well screened from the one house that would be affected & blends in with other setbacks in the neighborhood.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved, that the application for the proposed 5’ x 12’ extension to existing deck in the rear yard with a 2-foot side setback be GRANTED with no conditions.**

This resolution was moved by Jeff Pangburn and seconded by Scot Strevell at a meeting duly held on April 11, 2023.

*(Discussion)*

A vote was taken as follows:

Tom Hickey	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**NEXT MEETING:** The next meeting is on April 25, 2023

Reconvene ZBA Appeal #2023-01 Verizon-In the area of 25 Hampton Inn Drive/I-90/Exit 9-  
Small cell – Special Use Permit

ZBA Appeal #2023-05 Terry-429 Tempel Lane- Area Variance – Addition to garage

ZBA Appeal #2023-06 Empire Henshaw-91 Louis Drive- Area Variance – Ground Mounted  
Solar Array

**APPROVAL OF MINUTES:**

Motion by Jeff Pangburn to approve the March 28, 2023 meeting minutes. Seconded by Bob Seward. Motion carried by a 3-0 vote. Scot Strevell & Tom Hickey abstained.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Jeff Pangburn. Seconded by Matt Ostiguy. Motion Carried by a 5-0 vote.

Respectfully Submitted

*Alison Lovely*

Alison Lovely, ZBA Secretary