

# TOWN OF EAST BLOOMFIELD

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## Zoning Board of Appeals Minutes December 16, 2015

**Zoning Board of Appeals Members Present,** Art Babcock, Mark Thorn, Mike Long, Tim Crocker.

Absent: Sonja Torpey

**Others Present:** Andy Hall (Code Enforcement Officer) Kim Rayburn (Secretary) Jeff & Janet Pritchard (Applicant)

**Babcock opened the meeting at 7:35pm and the public hearing was read and opened.**

**I. TV2-15 Area Variance Jeff & Janet Pritchard 2596 Rabbit Run tax map # 67.03-1-7.100 AV** to erect a 14 x 20 Three (3) season room, addition on south side of SF home. 16 ft Variance to side lot line will have 34 feet were 50 is required. Per Schedule I.

Babcock and Rayburn reviewed the neighbor notifications, all neighbors within two hundred (200) feet were notified of the proposed project. Babcock asked Pritchard to go over his proposal; Pritchard stated he is requesting to erect a three (3) season room with a hot tub on the south side of his house. He stated that his original thought process was to look into erecting a screened in porch off of the deck on the back of the house. It turned out to be more of a project than expected due to the angle of the deck it comes off of the house at a forty five (45) degree angle. He stated that he had an estimate for a screed in aluminum type structure and they told him that a roof would need to be built over it due to the angles of the deck and the house roof line as they did not have an aluminum structure that would work there. They would have to change the substructure among other things and it turned out to be a 30,000 project for just a screened in porch. That seemed really high for what he would end up with. So they decided that what they really wanted was a three (3) season room with a hot tub, and it made sense to put it on the south side of the house because it's the least intrusive and would enter and exit into an existing hallway by the laundry room and their bedroom. Only one window in the laundry room would need to be removed to accomplish the project. The addition will be more solar efficient on the south side of the house. The placement of the addition is limited along the house due to the placement of the septic tank; the addition will be in an existing lawn area that is enclosed by the driveway. Pritchard hired an architect to design the addition to match his existing home and make sure its structural sound to carry the weight of the hot tub. He is trying to do all the right things, as it stands he could erect a structure that is not attached to the house without a variance but he really wants to have access to the house through a door entering into his hall by his laundry room and not have to shovel snow in order to get to and from the hot tub.

Babcock explained to the Pritchard's that the Board has to weigh State mandated criteria for each Variance. There are five areas that need to be reviewed and the Board will go through each one. Babcock asked the Board for any questions, Thorn stated that one of the criteria is can the proposed be achieved by some other method, he asked Pritchard to explain the difference between building on the back side vs the south side in more detail.

Pritchard stated that the 30,000 price tag was just to make his back deck a three season room with an aluminum type structure, that's a lot of money just to close in a small deck. The deck is not large enough to hold a hot tub, he stated they have a sitting room on the back of the house as well, but that room was built to have a place to look out at the trees and they do not have to look at anything else. Therefore they decided that structurally and for functionality not having to walk through any other rooms in the house when entering and exiting the hot tub the south side made the most sense. He needs to stay away from the leach lines that could be in the way if he built in the back and it would ruin his view shed. You would not get the same solar gain in the back as well.

The Board reviewed the pictures provided and the septic sketch. Babcock asked if the proposed addition will be at least ten (10) feet from the septic tank, Pritchard stated it would. A discussion was held on the placement and size of the addition. The addition will be a 14 x 20, the 20 ft would be running north/south and the 14 ft would be east/west.

Long asked about the zoning, Hall stated that the property is zoned AR-2, Long asked if they had purchased the house or had it built and he asked if the Pritchard's were aware of the zoning at that time. They stated they were as the house barely fit on the lot. Long then asked about any additional ground water run-off, he is concerned that it may affect the neighbor's property as it looks like their property is at a lower elevation than the Pritchard's. Pritchard stated that he has gravity fed pipe that all the downspouts are fed into it drains off into his own back yard.

Hall wanted the Board to understand the zoning of the property as the lots on Rabbit Run are pre-existing non-conforming to the current AR-2 regulations that require a minimum of two (2) acres. He asked the Board to look at *Section 135-29 Yard regulations*

A.

*Side yard reduction.*

(1)

*The width of one side yard in a residential district may be reduced to not less than 15 feet in an RR-1 Rural Residential District and 10 feet in an R-1-30 Residential District, provided that the sum of widths of the two side yards is not less than the required minimum.*

(2)

*In the case of lots which comply with the provisions for modification (see § [135-27A](#)), the combined total side yard requirements, as specified in the schedule, shall be reduced by six inches for each foot by which a lot is less than the minimum lot width requirement specified in the schedule for the zone in which located. In no case shall the combined side yard width be reduced to less than 25 feet nor shall any single yard be less than 10 feet in width in an RR-1 Rural Residential District. In no case shall the combined side yard width be reduced to less than 20 feet nor shall any single yard be less than eight feet in an R-1-30 Residential District.*

Rabbit Run used to be zoned as AR-1 before the Town Board dissolved the AR-1 district and rezoned that property as AR-2. Long stated that the property is better classified as RR-1 this does not have the same setbacks as the AR-2 district does. Babcock stated that these parcels were allowed to be developed after the zoning changed as pre-existing non-conforming to the AR-2 district he does not know why the zoning was changed, but it exist. Thorn stated the decision would be intent based and they have no idea of how that decision was made.

Hall also showed the Board section *135-27 Zoned lot regulations*

A.

*Existing zoned lots of record.*

(1)

*A nonconforming zoned lot of official record existing at the effective date of this chapter may be used for any purpose permitted in the zone district in which it is located, irrespective of its area or width, provided that the owner does not own any adjoining property which would create a conforming lot if all or part of said property were combined with subject zone lot, and provided that the minimum area for such lot shall be 15,000 square feet and a minimum lot width of 75 feet in the residential districts and that all other provisions of this chapter are adhered to.*

Babcock also referred to section 135-27 (3)

(3)

A permit for the use of preexisting lots, which are less than the minimum area and lot width specified in Subsection A(1) above, may only be issued following the approval of a variance by the Board of Appeals.

However there were not any permits or Variances given before these lots were developed. A discussion was held on when the lots were subdivided off and created as building lots as a permit may not have been required.

The Board considered the five statutory factors: A Discussion was held the following was determined.

1. Undesirable change – The Board determined that given the architecture of the addition and that there is a natural buffer between the Pritchard’s and their neighbor including a driveway turnaround, and the addition will still be 34 feet off the lot line they don’t feel the proposed would be an undesirable change.
2. Alternative method – The Board feels that there is an alternative method, however Pritchard gave good reasons why the placement of the addition should be on the south side, they considered the cost of the projects, the position of the septic and current position and size of the existing deck on the rear and the functionality as it applies to the existing house.
3. Substantial- thirty four (34 ±) plus or minus feet where fifty (50) feet is required, They do not feel that it is substantial as he is only asking for sixteen (16) feet and because turning the addition lengthwise would encroach on the ten (10) foot setback to the septic and it covers a bedroom window, the Pritchard’s choose not to build on the back due to reasons stated above and the addition will not be out of character with the neighborhood.
4. Adverse effect on physical or environmental conditions-does not qualify as an addition, the water will be directed to leach into Prichard’s back yard. Pritchard stated he would drain the tub by house to the back of his property, Babcock asked Hall if this project would conform to code, Hall stated it would and Pritchard has enough sod barrier to allow drainage in the back and it would go to the wooded area not the neighbor’s property.
5. Self-created- The Board feels it is self-created, however Thorn stated that due to the original subdivision the Pritchard’s could not add on as the house barely fit on the non-conforming lot when it was built.

Babcock asked the Board members if they had any other input. There was none.

Babcock closed the public hearing as there were no further questions or concerns from the Board or from the Public.

**Thorn made a motion and Long seconded the motion to declare SEQR a Type II no further action required, All Board members agreed.**

Babcock asked if the Board had read the advisory opinion of the Planning Board and asked if they had any comments, there were none.

**ZBA Decision:**

**Babcock made a motion and Thorn seconded the motion to approve the Area Variance, TV2-15 Jeff & Janet Pritchard 2596 Rabbit Run tax map # 67.03-1-7.100 AV to erect a 14 x 20 Three (3) season room/addition on south side of SF home. 16 ft Variance to side lot line will have 34 feet were 50 is required. Per Schedule I.**

**Whereas:**

- 1. The Planning Board gave a positive recommendation**
- 2. There was no public concern or objection**
- 3. There will be no detriment to the character of the neighborhood**
- 4. No adverse impact to the environment**

**A discussion was held Babcock asked when the project was proposed to be built, Pritchard stated in the spring, Thorn suggested adding a whereas that states the building is to be built to the diagram as provided and reviewed and will be started within 12 months from approval. Thorn also stated that one of the reasons they are considering this proposal is the similarities to the RR-1 District which is more in line with the parcel. And added another whereas that states the existing lot is a pre-existing non-conforming lot located in the AR-2 district.**

**Babcock made a motion to amend his motion to include Thorns comments, Long seconded the motion.**

**Whereas:**

- 1. The Planning Board gave a positive recommendation**
- 2. There was no public concern or objection**
- 3. There will be no detriment to the character of the neighborhood**
- 4. No adverse impact to the environment**
- 5. The building is to be built to the diagram as provided and reviewed and will be started within 12 months from approval**
- 6. The existing lot is a pre-existing non-conforming lot located in the AR-2 district**

**Record of Vote:**

**Art Babcock    Aye**  
**Mike Long       Aye**  
**Mark Thorn      Aye**  
**Tim Crocker    Aye**

**All Board members present voted Aye. Vote was carried unanimously.**

## **II. Minutes of November 18, 2015**

**Thorn made a motion and Long seconded the motion to approve the minutes of November 18, 2015 as written. All Board members present voted Aye, Vote was carried unanimously.**

## **IV. Meeting Adjourned**

**Crocker made a motion and Long seconded the motion to close the meeting @8:40 pm. All Board members present voted aye, Vote was carried unanimously.**

Respectfully submitted,

Kim Rayburn

Planning & Zoning Board Secretary