

ZONING BOARD OF APPEALS
VILLAGE OF HEAD OF THE HARBOR

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In the Matter of the Application of

Erica Rinear
477 North Country Road
St. James, New York 11780

RESOLUTION
Adopted: June 9, 2025

SCTM #0801-007.00-03.00-036.000
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Application of Erica Rinear seeking to install a natural gas fired generator with a front-yard setback of 45 feet where the § 165-25 of the Village Code requires a minimum front-yard setback of 100 feet and a side-yard setback of 26 feet where § 165-25 of the Village Code requires a minimum side-yard setback of 55 feet. The subject property is located at 477 North Country Road, St. James, New York (the "Property") in the Residential A zoning district. This is a Type II Action under SEQRA.

WHEREAS, Erica Rinear, an owner of the Property, has applied for area variance relief as set forth above; and

WHEREAS, the Property currently has pre-existing non-conforming front-yard and side-yard setbacks but a conforming residential use; and

WHEREAS, the Zoning Board of Appeals (the "Zoning Board" or the "Board") has reviewed the documents in the record concerning the Application, including but not limited to the survey depicting the Property's structures and the proposed location of the generator; and

WHEREAS, the Zoning Board of Appeals, after due notice, held a Public Hearing on the Application on June 9, 2025, at which Applicant appeared on her own behalf; and

WHEREAS, there was no opposition to the Application at the Public Hearing; and

WHEREAS, under Village Code Section 165-43 the Board may consider the proposed increase in the Property's non-conformity; and

WHEREAS Pursuant to Village Law 7-712-b(3)(b), the Board's review of so much of the instant application as seeks area variance relief includes weighing the benefit to the applicant if the variance is granted against the detriment to the health, safety and welfare of the neighborhood or community by such grant, and in so doing considers the following:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Village Law also directs that the Board, in granting area variances, "grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community." Village Law 7-712-b(3)(c).

WHEREAS all testimony and evidence has been carefully considered and WHEREAS based on the documents in the record and the testimony at the Hearing, the Zoning Board finds as follows:

1. The relief requested will not produce an undesirable change to the nature and character of the neighborhood or a detriment to nearby properties. The proposed 22 kw Generac generator is approximately four feet by two feet and about two feet in height. On a well-screened parcel of nearly two acres, the generator will have no impact on the neighborhood or surrounding parcels. The impact of the generator installation is further diminished by the pre-existing setbacks of the dwelling and accessory structures. The nearly two-century old dwelling has an existing front-yard setback of 39.3 feet and an eastern side-yard setback of 32.8 feet. The generator would lie over three hundred feet from the neighboring dwelling to the north and would be obscured by the subject dwelling and a garage. To the east lies the Monastery property whose dwelling and proposed church would lie about three hundred feet from the generator. The Property is well screened from North Country Road and the Property's eastern boundary.
2. The benefit sought cannot be achieved by some method, feasible for the Applicant to pursue, other than with the area variance relief requested. As Applicant noted at the hearing, the generator is being placed close to the gas meter. Moving the generator to the west of the dwelling would require significant cost in extending the Property's gas line. Moving the generator to the west of the Property would also require clearing vegetation and trees. Applicant's goal of having sufficient backup power generation for the Property requires the stated variance relief.
3. The requested setback variance is numerically significant (55% for the front yard and 52.7% for the side yard). However, given the pre-existing nature of the front-yard and side-yard setbacks and the distinguishable characteristics discussed above, this factor does not necessitate denial.
4. The evidence before the Board does not indicate that the requested setback variance would have an impact on the physical or environmental conditions in the neighborhood. Applicant's plan avoids clearance of vegetation and trees.
5. The hardship here is at least partly self-created, however, this factor is not in and of itself dispositive.

WHEREAS the Zoning Board finds the granting of the requested relief will not result in any perceivable detriment to the health, safety and welfare of the neighborhood or community and as such the benefit to the Applicant if the relief is granted clearly outweighs same.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Incorporated Village of Head of the Harbor that the Application is granted.

WHEREUPON, the foregoing resolution was duly adopted by a unanimous vote at the June 9, 2025 Hearing by the Zoning Board, with members present voting as follows:

Joseph Bollhofer, Chair:	Aye
Bill Anderson:	Aye
John Lovett:	Aye
Alyson Svatek:	Aye
Mark Zuckerman:	Aye

Joseph Bollhofer

Joseph Bollhofer, Chair
Zoning Board of Appeals

Filed in the Office of the Village Clerk on the 14th day of July, 2025.

Margaret O'Keefe
Margaret O'Keefe, Village Clerk