

Town of Red Hook  
Zoning Board of Appeals Special Meeting Minutes (Approved)

January 29, 2015

**CALL TO ORDER**

The meeting was called to order at 7:00 PM by Tim Ross.

**ROLL CALL**

Members Present: Tim Ross, Chris Carney, Ken Anderson, John Douglas, Trilby Sieverding, Jim Hegstetter

Members Absent: Chairman Annas

Also Present: Victoria Polidoro, Office of the Town Counsel, Norman Greig, Respondent in an Article 78 Petition, and Kathleen Karakassis, Petitioner, in an Article 78 Petition.

The purpose of the Special Meeting is to seek advice from counsel regarding pending litigation.

Tim Ross moves to take the Special Meeting into Executive Session. John Douglas seconds, and all are in favor.

Ken Anderson moves to take the Special Meeting out of Executive Session. Jim Hegstetter seconds, and all are in favor.

Tim Ross states that in reviewing the Article 78 Petition, in which the Town of Red Hook ZBA is a Respondent, there is a procedural defect in the Variances granted at the December 14, 2014 ZBA Meeting. Mr. Ross recommends that the Board rehear the Applicant at a future meeting, in order to address the procedural defect. He also clarifies that the Board will need additional information in order to do this.

The Board determines, in the course of the Special meeting that it will need a completed SEQR Environmental Assessment Short Form [EAF-S], from the Applicant. The ZBA will be conducting an uncoordinated [SEQR] review, independent of the Town Planning Board, since that Board can not take action until the ZBA has made its determination.

The Board also asks the Applicant for information on the Special Permit, for the airstrip, on the same parcel, as the Applications before the Board. Specifically, a map to show what parcels it crosses.

Victoria Polidoro clarifies to the Applicant that the ZBA will not base its decision, at the rehearing, on historic use of the parcel, but rather, on what the Town Code permits, versus what the Applicant is asking for.

In addition to this information, the Board asks the Applicant for a Traffic Study and a Site Plan. The Board also asks the Applicant for an Impact Study describing how a 14 room inn, with a 50 seat restaurant would impact the neighbors, and how those impacts can be mitigated, as opposed to a 10 room inn, with a 30 seat restaurant, which is already permitted in the ABD, as an accessory use to a farm.

Lastly, the Board wants the Applicant to address in more detail the 5 criteria, on which the Board bases its Decision, from the Applicant's original Application to the ZBA.

The Board finds there will be no prejudice to the Applicant, as a result of the rehearing. Tim Ross clarifies that the rehearing will be a fresh look, with everybody's input, including the information requested of the Applicant. The Applicant also states that he has not yet taken any actions in reliance on the Variances granted at the 12/10/14 ZBA meeting.

In light of the time needed for the Board to receive and review this documentation, Tim Ross moves the rehear the Applicant at a Public Hearing, at the March 11<sup>th</sup>, 2015 ZBA meeting. John Douglas seconds, and all are in favor.

Victoria Polidoro raises the point that as the Board reviews the documentation, it may need to request further information from the Applicant. She also clarifies that the Applicant will need to cover the costs of the certified mailing to his neighbors, as if the Public Hearing were taking place for the first time. She establishes, in a technical sense, that the Variances granted in December are not null and void, but are frozen until the rehearing in March.

Victoria Polidoro and the Board next discuss an escrow account in order to cover the costs associated with legal review of the Application, meeting attendance and preparation of resolutions. These activities do not fall under her regular retainer, since there is pending litigation, against the Town, associated with these Applications.

The Applicant states he already has an escrow account with the Town Planning Board, and asks if there needs to be a separate account for the ZBA. The Board decides to maintain a separate escrow account for the legal costs of their Action.

Tim Ross moves to create an escrow account of \$1000.00. Jim Hegstetter seconds, all are in favor. This account is to be replenished as needed, with any unused remainder, refunded to the Applicant.

The Applicant wants to know what will happen with the Article 78 Petition, since the Board has agreed to a rehearing of his Applications.

Victoria Polidoro responds that she will contact the Petitioners attorney, and ask for an extension of 4 months, in order for the ZBA to go through the process of the rehearing. She also stipulates that the Applicant, or his attorney, is going to have to be a party to these discussions.

The Applicant states that he does not have an attorney at this time, and that he has not been served [with papers pursuant to the Article 78 Petition].

Kathleen Karakassis does not understand why the Variances, granted in December, will not be revoked. She also notes that since the December Meeting Minutes have not yet been approved, there is no formal resolution.

Victoria Polidoro clarifies for all present that the Article 78 Petition is based on the record of the December Meeting, and that Due Process requires there to be a rehearing of the Applicant's ZBA Public Hearing, before the Board can draft and vote on a Resolution. She also recommends that the Applicant hire a consultant to assist him in the Article 78 Petition process. She explains to the Board, and all present that the judge will be basing his or her decision on documentation, and not hearing oral arguments.

Jim Hegstetter moves to close the Special Meeting. Chris Carney seconds, and all are in favor.

