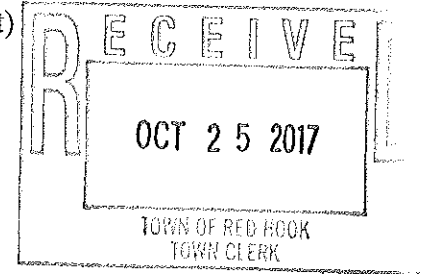


Town of Red Hook  
Zoning Board of Appeals Meeting Minutes (Draft)

October 11, 2017



**CALL TO ORDER**

The meeting was called to order at 7:02 pm by Chairman Nick Annas

**ROLL CALL**

Members Present: Chairman Nick Annas, Tim Ross, Kris Munn, Chris Klose, Chris Carney, Jim Hegstetter and ZBA Alternate Kate Karakassis, instated as a full voting member by Chairman Nick Annas

Members Absent: No Board members were absent.

Also Present: Victoria Polidoro, ZBA Counsel, Jim Ross, Town Board Liason to the ZBA, and Bob Fennell, Zoning Enforcement Officer, and Assistant Building Inspector, to the Town of Red Hook. John Lyons and Kim Garrison of Grant Lyons LLP, representing the ZBA applicants Dominic Tampone, and George and Cathy Michael. Genevieve Trigg, of Whiteman, Osterman & Hanna, LLP, co-counsel to Mr. Lyons.

**PRELIMINARY BUSINESS**

Minutes from August 09th, 2017

At 7:02pm Chairman Annas asks for a motion to approve the ZBA meeting minutes from August 09th, 2017. Chris Klose so moves, and Kris Munn seconds. There is no discussion. All are in favor.

Planning Board Minutes/ Comments from the Chairman:

There are no comments on the Planning Board minutes. Chairman Annas comments at the Friday morning Red Hook Intermunicipal Task Force meetings, many items are discussed, among which the banning of formula businesses, such as chain retail stores, or restaurants, in the Town of Red Hook.

Chairman Annas also installs Kate Karakassis, a ZBA Alternate, as a full voting member, for the meeting.

Finally, Chairman Annas invites the applicants and their representative, John Lyons, of Grant & Lyons LLP, to present their appeal to the Board.

**Review**

Appeal 17-07, Dominic Tampone and George and Cathy Michael application for an interpretation regarding the determination of ZEO Robert D. Fennell in reference to the property

owned by Shafers LLC, located at 8047 Albany Post Road, in the Town of Red Hook, permitting the installation of an onsite septic system. The subject property is located in the RD3 and B1 Zoning Districts.

Mr. John Lyons, of Grant & Lyons LLP, representing the applicants, Dominic Tampone, and George and Cathy Michael, introduces himself and clarifies the applicants are neighbors of subject property. He further notes the subject property is located in two different zoning districts. Mr. Lyons indicates the front part of the property, with frontage on [NYS] Route 9, is located in the B1 Zoning District, and the back portion of the property is located in the RD3 Zoning District. Mr. Lyons indicates a map, [included with the documentation submitted with the application to the ZBA], illustrating the subject parcel and the two zoning districts. Mr. Lyons points out the zoning boundary line in yellow, on the map, which, he indicates bisects the property. Mr. Lyons further states the expanded hotel use is proposed in large part for the portion of the property he indicates on the map, and further notes the wastewater disposal system is proposed to be located on the western side of the property, in the RD3 Zone, where, Mr. Lyons states, lodging uses are not permitted uses.

Mr. Lyons notes the Shafers [owners of subject property] already have an existing motel on part of the property, in the B1 Zoning District, which has 10 guest rooms. Mr. Lyons further states, the land in the RD3 [Zoning District] portion of the property is currently an open field. Mr. Lyons states, the Shafer's plan, as it has been presented to the [Town] Planning Board, is seeking approvals to double the size of their motel, from 10 guest rooms to 20 guest rooms, as well as adding some other additional facilities for guests. Mr. Lyons further states, the Shafer's proposed plan, in a nutshell, is like trying to put 10 pounds of flour in a 5 pound sack. Mr. Lyons states the project is too big for the amount of land [the property owners] have in the B1 district. Mr. Lyons states the Shafer's plan packs so much expansion onto the B1 portion of the lot, that they can't fit the whole project into the portion of the lot that is in the B1 district. Mr. Lyons further states, [the property owners] instead of reducing the scale of the project, they are attempting to solve their problem, by building part of their wastewater disposal system in the RD3 zone, where the motel use is not an allowed use.

Mr. Lyons states the plan is now before the [Town] Planning Board, but Mr. Lyons states, the Planning Board does not have the authority to interpret the Town of Red Hook Zoning Law. Mr. Lyons further states only the [ZBA] has that authority. Mr. Lyons states this is the reason [his clients], the applicants are before the Board. Mr. Lyons states [he and his clients] requested an interpretation from the Zoning Enforcement Officer, and states [he and his clients] received a decision from the ZEO, and further states he is before the ZBA to appeal the ZEO's decision.

Mr. Lyons states [he and his clients] disagree with the result that the ZEO came to, which, he states he will talk more about shortly. Mr. Lyons states [he and his clients] are before the ZBA with the simple question, "Does the Red Hook Zoning Law prohibit the Shafers from building part of their project in the RD3 Zoning District, where the lodging use is prohibited. Mr. Lyons states he and his clients find the Shafers are prohibited. Mr. Lyons further states he and his clients find the ZEO made a mistake in determining that the wastewater system was allowed in the RD3 zone. Mr. Lyons states his clients are concerned about this question because the Red Hook Zoning Law sets forth a vision for how Red Hook is supposed to grow – the Town's own vision for itself. Mr. Lyons states he and his clients request the vision, stated in the [Town] Zoning Law be followed and not flouted.

Mr. Lyons reads an excerpt from the New York State Department of State publication “Zoning Board of Appeals” “A zoning law is a community’s guide to its future development. That is its purpose. It is not meant to be just another governmental intrusion, another bit of red tape to be untangled before the property owner can go ahead with his[/or her] plans. The protections afforded residents and property owners within the community from undesirable development come from the restrictiveness of zoning.” Mr. Lyons states [this passage] explains to the Board, in the words of the Department of State the protections that the zoning law affords for members of the community. Mr. Lyons states his clients are here because the plan that the Shafers are proposing to the [Town] Planning Board violates the [Town] Zoning Law.

Mr. Lyons further states the plans are contrary to the Town’s vision for growth by proposing an expansion that exceeds the scale of development that is allowed by the Red Hook Zoning Law. Mr. Lyons states, on this appeal, he and his clients are asking the ZBA to do two things: Mr. Lyons states he and his clients are asking for an interpretation ruling that the Zoning Law prohibits the Shafers from building part of their proposed wastewater disposal system, from the expanded motel, in the RD3 Zoning District, where lodging uses are not allowed. Mr. Lyons further states he and his clients are asking the Board for a determination that the [Town of] Red Hook ZEO’s decision is mistaken as a matter of law.

Mr. Lyons states the major mistakes that the ZEO made in his decision are that he calls the wastewater disposal system an “accessory use, or structure” when it is not. Mr. Lyons states the ZEO ignores the section of the Zoning Law that specifically addresses what happens when a parcel is bisected by a zoning district line. Mr. Lyons further states that provision permits a limited 25’ extension into the more restrictive zone. Mr. Lyons states his co-counsel, Genevieve Trigg has pointed out, by attaching no importance to all of the zoning district lines, the ZEO’s interpretation is actually undermining the integrity of the zoning district boundary lines and the stated purposes of those districts.

Mr. Lyons state the ZEO has also ignored another [Town] Zoning Law provision that requires, in the case of a conflict between zoning law provisions, that the more restrictive be applied. Mr. Lyons states even if the argument, that the wastewater disposal system is accessory, had a reasonable basis, which Mr. Lyons states he and his clients say it does not, the more restrictive provision of the [Town] Zoning Law, which addresses bisected lots, would have to be applied, in this case.

Mr. Lyons states the above represents the major errors in the ZEO’s decision. Mr. Lyons further states the arguments in support of his and his clients’ case, are broader and more detailed. Mr. Lyons notes these are set forth in full in the documentation included with the application he submitted on his clients’ behalf. Mr. Lyons states he believes most of the material set forth in the submission, as part of the application, is self-explanatory. Mr. Lyons further states he and his clients are continuing to develop information about this case and states he will be submitting additional arguments, evidence and testimony during the public hearing.

Mr. Lyons states the totality of his and his clients’ proof will show that the Red Hook Zoning Law must be interpreted to prohibit the construction of the wastewater disposal system more than 25’ into the RD3 Zone. Mr. Lyons further states any interpretation otherwise will be arbitrary, capricious, and subject to reversal by the [New York] State Supreme Court. Mr. Lyons further states, in cases like this one, the law defines [the Board’s] function as “quasi-judicial”. Mr. Lyons states that means [the Board] is performing a function similar to that of a judge in a court of law. Mr. Lyons states, consequently, [the Board] is expected under the law to conduct [its]

review in that spirit. Mr. Lyons states [the Board's] task is to bring an open mind to the question he and his clients have posed, to conduct a full and fair review, and then to apply the interpretation that is supported by the legal rules which govern the interpretation of zoning laws, and by the evidence that is presented in part of the review. Mr. Lyons further states [the Board's] job is to apply the [Town] of Red Hook Zoning Law as it is written. Mr. Lyons further states [Board members] may disagree with the land use policy, which that law implements, but that cannot factor into your decision, because, the question that is presented here is what the [Town] Zoning Law says, not whether the motel expansion project is a good one or a bad one.

Mr. Lyons states he is asking each Board member to bring an open mind to the legal question that is presented here. Mr. Lyons further states if [Board members] have heard talk about this application around town, or around Town Hall, Mr. Lyons asks [the Board] to cast that aside. Mr. Lyons states [the Board's] counsel will tell it that the record upon which you will decide this question is generally confined to the information and evidence that is presented to [the Board] during the course of its review of this application. Mr. Lyons further states if [Board members] rely on personal knowledge in reaching their decision, State Law requires [Board members] to disclose that knowledge on the record and to explain the basis for that knowledge. Mr. Lyons states he and his clients have the details of their arguments set forth in the documentation submitted to the Board, and thanks the Board for its time and attention, and states he will be happy to answer any questions the Board might have.

Chairman Annas asks the Board if it has any questions. Kris Munn states he has no questions for the applicant at this time. Victoria Polidoro asks the Board if it wishes ZEO, Bob Fennell to make a statement, to which the Board replies it does. Chairman Annas invites Bob Fennell to make a statement. Mr. Fennell states he has no comment on the presentation by Mr. Lyons, and adds his decision speaks for itself. Mr. Fennell further states he wishes to present an Affidavit of Mailing and Filing to the Board. Chairman Annas reads the above referenced Affidavit of Mailing and Filing into the ZBA minutes [see Exhibit A]. After Chairman Annas reads said affidavit into the ZBA minutes, Mr. Fennell presents his determination, regarding the present appeal, dated July 13, 2017, to the Board [see Exhibit B]. Chairman Annas asks Victoria Polidoro if he needs to read the aforementioned ZEO Determination into the ZBA minutes, to which Ms. Polidoro replies it is not necessary, since the document was already submitted, to the Board, by Mr. Lyons in the [application] materials.

Kris Munn asks Bob Fennell if there is anything he wants to say regarding the points that were brought up during Mr. Lyons' presentation. Mr. Fennell replies he has no comment. Mr. Warren Replansky, of Warren S. Replansky P.C., introduces himself as the legal counsel for the subject property's owner, Vanessa Shafer. Mr. Replansky states his client, Ms. Shafer, has had an application before the [Town] Planning Board, for the expansion of her motel, for over two years now. Mr. Replansky further states, contrary to the assertion of the neighbor's attorney, this is a classic case of NIMBYism [Not In My Back Yard].

Mr. Replansky states there is a threshold matter for the Board to consider, prior to its scheduling of a public hearing, for the present appeal. Mr. Replansky states this is whether the application, appealing the determination of the [Town] ZEO, which was absolutely correct, well-reasoned, and in compliance with the law, which indicated that the location of the septic system, on the adjoining piece of property, in the residential zone, was permitted by the [Town] Zoning Law, is timely. Mr. Replansky states the Town's law requires that a determination of the ZEO must be filed in his office, within five days of the determination. Mr. Replansky further states an appeal must be made, to the ZBA, within 60 days of this filing, in the ZEO's office. Mr. Replansky

states in this case the appeal was filed, he believes, two or three days too late. Mr. Replansky states he believes the appeal was filed on September 15<sup>th</sup>, [2017], and notes July 13<sup>th</sup>, [2017] was the date of the filing in the office, and further notes the 60 day time period [for submitting an appeal to the ZBA], expired prior to the filing of the appeal with the ZBA, so he and his client ask the ZBA that there be a threshold determination that the appeal is untimely.

Mr. Replansky also comments to the Board his client's application has been pending, before the [Town] Planning Board for two years. Mr. Replansky states the original determination by the [Town] ZEO, when the application was submitted to him, was that the use, including the septic system, was a use that was permitted by the [Town] Zoning Law. Mr. Replansky also states it is the ZEO's duty to make that initial determination before he certifies the application to the Planning Board. Mr. Replansky states, once the ZEO certifies [the application] to the [Town] Planning Board, his determination is that in all respects the application meets the requirements of the [Town] Zoning Law, and then it is up to the [Town] Planning Board to apply the Site Plan and Special Permit criteria to that application. Mr. Replansky states the appeal [to the ZBA] should have been filed two years ago, when the ZEO made his initial determination to certify the case to the [Town] Planning Board. Mr. Replansky states even if this appeal were timely, the appeal should have been filed at the time of the original determination by the ZEO [to the Town Planning Board.]

Mr. Replansky states there is a concept of *Laches*

*[Negligence, consisting in the omission of something which a party might do, and might reasonably be expected to do, towards the vindication or enforcement of his rights. The word is generally the synonym of "remissness," "dilatatoriness," "unreasonable or unexcused delay," the opposite of "vigilance," and means a want of activity and diligence in making a claim or moving for the enforcement of a right (particularly in equity) which will a Word ground for presuming against it.*

*Source: Law Dictionary: L Information and Definitions from Black's Law Dictionary]*

and further states, this concept is applied in cases where someone who has an enforceable right waits an unreasonable amount of time to enforce that right to the detriment of a property owner. Mr. Replansky states this [appeal] is a classic case of laches. Mr. Replansky states if this issue had been brought to the attention of the [Town] Planning Board and ZEO two years ago, his clients would not have spent hundreds of thousands of dollars in this application. Mr. Replansky states even if the [present] appeal [to the ZBA] were timely, in accordance with the statutory mandates, it would be deemed to be untimely as a matter of the application of laches.

Mr. Replansky states he is not going to address the merits of the [present] appeal, and states he presumes the Board will set a public hearing and further states he and his client would weigh in at that time. Mr. Replansky states he and his client are hoping the Board will make a determination tonight that the [present] appeal is untimely, so that there is no need for a public hearing. Mr. Replansky states if the Board makes a determination that the appeal is timely, he and his client would like the Board to set forth on the record the reasons why the Board determines it is timely, further stating he is not sure how the Board could make such a determination. Mr. Replansky states he and his client would certainly be given an opportunity at the public hearing to address the issues that Mr. Lyons addressed tonight, which Mr. Replansky characterizes and an argument to the appeal, rather than a preliminary presentation to the Board.

Mr. Replansky thanks the Board for hearing his statement, introduces his client, Ms. Vanessa Shafer, and states he would be happy to answer any questions from the Board.

Chairman Annas states the Board has no questions at present.

Mr. Lyons asks to make a statement. Chairman Annas states the Board is not dealing with the application, necessarily, but the Board is dealing with procedural questions. Chairman Annas asks Victoria Polidoro if the Board is able to proceed with the application.

At 7:25pm Tim Ross moves that the Board move into Executive Session to discuss the matter with counsel. Chairman Annas states he has no objection to that. Jim Hegstetter seconds.

John Lyons states to Chairman Annas and the Board this is the first he and his clients are hearing of the timeliness issue, and he and his clients will want an opportunity to brief that issue for the Board, and address the Board before it takes any action. Mr. Lyons asks the Board that he and his clients be provided an opportunity to submit their own arguments, addressing this issue, to the Board, perhaps at the next meeting.

At 7:27pm the Board votes unanimously to move into Executive Session.

At 7:45pm Kris Munn moves to come out of Executive Session. Chris Klose seconds the motion, and all vote in favor of it.

At 7:46pm Chairman Annas reads the Board's Resolution Number 17-07, Resolution To Dismiss As Untimely [see Exhibit C], noting, while reading said Resolution, that the appellants are Dominic Tampone, and George and Cathy Michael, and that it is Section 267-a (5) (a), of New York State Town Law, that states that determinations of administrative officials charged with the enforcement of the zoning law shall be filed in the office of such administrative official;

After Chairman Annas reads the above referenced ZBA resolution, Victoria Polidoro asks the Board if it wishes to discuss said resolution. Ms. Polidoro asks the Board to enter the Town Board Resolution, referenced above, into the ZBA meeting minutes. At 7:47pm Chairman Annas reads the above referenced Town Board resolution. [See Exhibit D for the Town Board Resolution, 2000, number 16, of April 11, 2000, read into the ZBA minutes by Chairman Annas at the October 11, 2017 ZBA meeting. Said Town Board Resolution is cited in the ZBA Resolution 17-07 which was read and voted on at the October 11, 2017 ZBA meeting.]

At 7:49pm Chairman Annas moves and Tim Ross seconds a motion to entertain the resolution before it.

Chairman Annas asks the Board if it has any comments on the resolution before it.

John Lyons states he would like to respond to the resolution. He further states he thinks the Board is violating the applicants' due process rights, and wants to put some objections on the record. Chairman Annas states he will allow objections after the Board votes on the resolution.

Mr. Lyons states he wants the record to reflect he is objecting before the vote. Victoria Polidoro states the Board can take Mr. Lyons' objections if it so wishes. Chairman Annas asks the Board

if it wants to hear Mr. Lyons' objections. Tim Ross states the Board has heard them insofar as Mr. Lyons has stated his objections to the Board taking action this evening.

Mr. Lyons states Mr. Ross's statement is an unfair characterization of his objections, and states he would like to state them himself, since the record is what he and his clients will have to go on after this. Chairman Annas states he will allow Mr. Lyons to state his objections.

Mr. Lyons states that he and his clients deny that the present application is untimely. Mr. Lyons states he and his clients have requested an opportunity to be heard on this issue and to brief this issue, and that in acting this evening, the ZBA is denying that opportunity to be heard. Mr. Lyons further states this issue was raised for the first time in the knowledge of the appellant this evening, just minutes ago. Mr. Lyons states it appears that the Shafers have known about this in advance of this meeting. Mr. Lyons states the Board might have known about this as well, since it has a written resolution prepared. Mr. Lyons states the ZEO's affidavit, regarding filing and service was handed up to this Board minutes ago, with no copy provided to him and his clients, and without he and his clients having any opportunity to see it. Mr. Lyons asserts that his clients' due process rights, regarding this appeal, are being violated, for the Board's making a decision on this issue tonight. Mr. Lyons thanks the Board.

Victoria Polidoro asks for a copy [of the above referenced ZEO affidavit], which is given to Mr. Lyons. Ms. Polidoro also states she can email a copy of the above referenced Town Board Resolution to Mr. Lyons. Mr. Lyons states it is not helping him right now. Ms. Polidoro states this is understood.

ZEO Bob Fennell states he gave the wrong letter to the Board and presents a second copy, which includes handwritten notation. [see Exhibit B].

Ms. Genevieve Trigg, of Whiteman Osterman & Hanna, LLP, co-counsel to Mr. Lyons states there is no proof of the ZEO's filing of his decision, and further comments the earliest she, her co-counsel, and their clients could have received it, is the day they received it in the mail. Ms. Trigg states that day [of receipt] should be the minimum day that the statute of limitations runs from.

Chairman Annas states he does not believe the Board is here to argue the merits of the appellants' case, but rather the Board has to look at this [timeliness issue] in a pretty cut and dried manner. Chairman Annas states the Board is looking at 64 days [from the date of the application], where the requirement is for 60[days]. Chairman Annas states this is where the Board stands. John Lyons states this is not a fair proceeding. Alternate Board member, instated as a full voting member, for the present ZBA meeting, Kathleen Karakassis asks Chairman Annas and the Board if it is ready to vote.

Chairman Annas recommends the Board proceed with the vote.

At 7:53pm the Board votes on ZBA Resolution Number 17-07, Resolution To Dismiss Appeal As Untimely as follows: [see final page of Exhibit C]

Aye Mr. Annas  
Aye Mr. Carney  
Aye Mr. Hegstetter  
Aye Mr. Klose

Aye Ms. Karakassis (Alternate)

Aye Mr. Munn

Aye Mr. Ross

The motion passes 7-0

At 7:54 pm Kris Munn moves to adjourn the meeting. Kathleen Karakassis seconds, and all are in favor.



EXHIBIT A

1 PAGE

AFFIDAVIT OF MAILING AND FILING


STATE OF NEW YORK            )  
  )SS.:  
COUNTY OF DUTCHESS        )

ROBERT D. FENNELL, being duly sworn, hereby deposes and says:


1. I am the Zoning Enforcement Officer for the Town of Red Hook. I make this affidavit based on my personal knowledge.

2. On July 13, 2017, I mailed the original version of the attached determination letter (excluding the handwritten notation as to filing) (the "Determination") to John F. Lyons, Esq. and Kimberly A. Garrison, Esq., by placing the same in a sealed envelope, with postage prepaid thereon, in the designated outgoing mailbox for the U.S. Postal Service located in the Town of Red Hook Town Clerk's office, 7430 S. Broadway, Red Hook, NY and addressed to Grant and Lyons LLP, P.O. Box 370, Rhinecliff, New York.

3. After mailing the Determination, I filed a copy of it in my office on July 13, 2017.

  
Robert D. Fennell

Subscribed and sworn to  
before me the 5 of October, 2017.

  
Notary Public

**SUSAN J. McCANN**  
Notary Public, State of New York  
QUALIFIED IN DUTCHESS COUNTY  
No. 01MC6098068  
Commission Expires September 2, 2019

EXHIBIT B

3 PAGES

TOWN OF RED HOOK  
7340 South Broadway  
Red Hook, New York 12571

July 13, 2017

John F. Lyons, Esq.  
Kimberly A. Garrison, Esq.  
Grant and Lyons LLP  
P.O. Box 370  
Rhinecliff, New York

Re: Shafer Lodging Facility Project

Dear Ms. Garrison and Mr. Lyons,

This is in response to your letter of June 2, 2017 concerning the above in which you assert that the absorption field of the subsurface sewage disposal system proposed to be located in the RD3 portion of the Shafer property is a part of the lodging use of the property a use which is not permitted in the RD 3 Zoning District.

The subsurface sewage disposal system is an "accessory structure" and "accessory use" and is subordinate to the principal building and attached thereto and located on the same lot. (See definition of Accessory use and Accessory structure in the Definition Section.)

Filed in the  
Office of the  
ZONING ENFORCE-  
MENT OFFICER  
July 13, 2017.

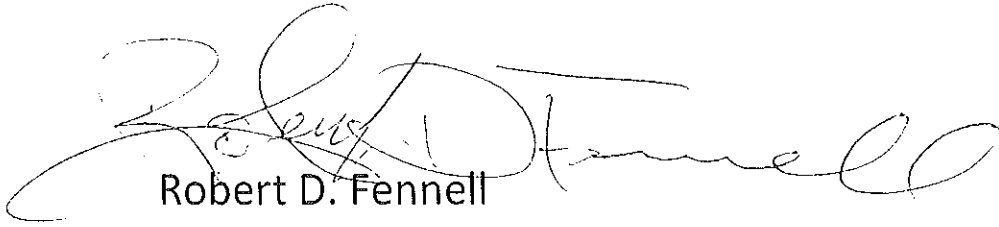
Robert D. Stempel  
ZONING ENFORCE-  
MENT OFFICER

While the Shafer parcel is bifurcated by two zoning districts, it does meet the definition of “Lot” in Section 104-4 which defines Lot as: “A single contiguous parcel of land, whether or not located in two or more zoning districts or municipalities, undivided into two or more portions by a street, having defined boundaries and considered as a unit, devoted to a specific use or occupied by a structure or group of structures that are united by a common interest, use or ownership, and including common accessory structures, uses, open spaces and yards which parcel shall have frontage on a street or on such other means of access as may be deemed sufficient in accordance with the applicable provisions of Section 280-a of the Town Law to provide suitable access as a condition precedent to the issuance of a building permit.” Accordingly, the Shafer parcel is single lot.

The District Schedule of Use Regulations of the Town Zoning Law (Section 143-11), permits, as a non-residential accessory use, “Customary accessory use or structure incidental to the special or permit use and located on the same lot as defined in Section 104-4 of this chapter”.

The subsurface sewage disposal system, while in the RD 3 portion of the lot, is an “accessory use” of the lodging use and is permitted to be located in the RD3 portion of the lot.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Fennell". The signature is fluid and cursive, with a large initial "R" and "D".

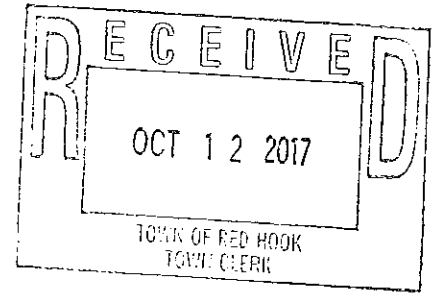
Robert D. Fennell

Zoning Enforcement Officer

EXHIBIT C

2 PAGES

Town of Red Hook  
Zoning Board of Appeals  
7340 South Broadway  
Red Hook, NY 12571



**RESOLUTION TO DISMISS APPEAL AS UNTIMELY**

**Appeal 17-07: Dominic Tampone, George and Cathy Michael**

Date: October 11, 2017

Moved By: Nick Annas

Resolution: # **17-07**

Seconded By: Tim Ross

WHEREAS, on July 13, 2017, Zoning Enforcement Officer ("ZEO") Robert Fennell issued a determination in connection with the Shafer Lodging project pending before the Town of Red Hook Planning Board (the "Determination"), and, on the same date, filed a copy of the Determination in his office after mailing a copy of the Determination to the attorneys for the appellants; and

WHEREAS, on September 15, 2017, the appellants, Dominic Tampone, George Michael, and Cathy Michael, submitted an appeal (the "Appeal") of the Determination; and

WHEREAS, New York Town Law states that determinations of administrative officials charged with the enforcement of the zoning law shall be filed in the office of such administrative official; and

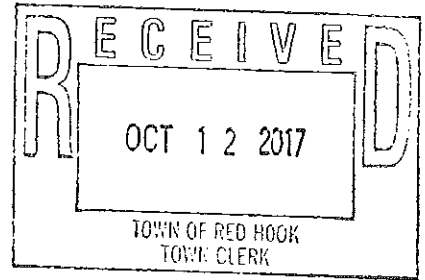
WHEREAS, on April 11, 2000, the Town of Red Hook adopted Resolution 2000 #16 stating the ZEO shall file his/her determinations in his/her office within five business days after the rendering thereof and that such filings shall be public record; and

WHEREAS, Town of Red Hook Zoning Law § 143-136(B) states that all appeals made to the Zoning Board of Appeals shall be submitted within sixty calendar days of the filing of any action appealed from; and

WHEREAS, by filing the Appeal on September 15, 2017, the Appeal was four days past the sixty-day limit, which expired on September 11, 2017.

**NOW THEREFORE BE IT RESOLVED, that because the Appeal was not filed within the 60-day limit established by law, the ZBA is without jurisdiction to hear it and summarily dismisses the Appeal as untimely.**

Aye Mr. Annas  
Aye Mr. Carney  
Aye Mr. Hegstetter  
Aye Mr. Klose  
Aye Ms. Karakassis (Alternate)  
Aye Mr. Munn  
Aye Mr. Ross



A handwritten signature in cursive script, appearing to read "Nick Annas".

---

Nick Annas, Chair

RESOLUTION '2000 #16

**A RESOLUTION DIRECTING THE ADMINISTRATIVE OFFICER CHARGED WITH THE ENFORCEMENT OF ZONING REGULATIONS WITHIN THE (CITY OF \_\_\_\_\_; TOWN OF RED HOOK; VILLAGE OF \_\_\_\_\_) TO FILE EACH ACTION IN HIS/HER OFFICE WITHIN FIVE BUSINESS DAYS**

Whereas, Chapter 476 of the Laws of 1999 provides that the administrative officer charged with the enforcement of the zoning local law (or ordinance) must be file each order, requirement, decision, interpretation or determination in his/her office within five business days after the rendering thereof, and

Whereas, it is the objective of the (city council; town board; village board) to apprise the public and the administrative officer charged with the enforcement of the zoning regulations to clearly establish where such actions shall be filed;

NOW THEREFORE BE IT RESOLVED by this (city council; town board; village board) as follows:

Section 1. The administrative officer charged with enforcing the zoning local law (or ordinance) is hereby directed to file each of his or her orders, requirements, decisions, interpretations or determinations in his/her office within business five days after the rendering thereof and such filings shall be a public record.

Section 2. This resolution shall take effect immediately.

DATE: APRIL 11, 2000  
VOTE: UNANIMOUS

EXHIBIT D

1 PAGE