

Town of Red Hook Zoning Board of Appeals  
Draft Minutes April 14, 2021

## **Preliminaries**

### **ROLL CALL And Wording Revision of Current Agenda Item**

The meeting is called to order at 7:02pm. Chairperson, Kate Karakassis, asks for a roll call for the attendance. Chris Carney states he is present, Jim Hegstetter states he is present. Kate Karakassis states she is present. Absent are Nick Annas and Chris Klose. Victoria Polidoro, ZBA Attorney, ZEO Bob Fennell, and Anne Rubin, ZBA Clerk are also present. ZBA Applicants for Appeal 21-01 King, and 21-02, 21-02A Kanuk-Mighty Donuts are also present.

### **March 10, 2020 MEETING MINUTES**

Chairperson Karakassis states there is no quorum to vote on the March meeting minutes, since Jim Hegstetter was absent for that meeting, and recommends the Board vote on them at the May 12, 2021 meeting.

### **REVIEW OF PLANNING BOARD MINUTES AND COMMENTS FROM THE CHAIR**

Chairperson Karakassis notes the ZBA received the Mighty Donutes excerpt of the approved Planning Board minutes, and asks if anyone wishes to comment. Chris Carney and Jim Hegstetter state they have seen the minutes, but have no comment. Chairperson Karakassis states she has no comment.

### **Public Hearing**

David King application 21-01 for an area variance to construct a new 300 SF, single bay, detached garage on the subject parcel, within 20.3 feet of the front property line, on Hewlett Road. The Town of Red Hook Zoning Law – District Schedule of Area and Bulk Regulations require a 35 foot front yard setback. The subject parcel is located at 2 Hewlett Road, in R1 Zoning District, of the Town of Red Hook.

Chairperson Karakassis asks for a motion to open the public hearing. At 7:04pm Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor of opening the public hearing. Chairperson Karakassis notes the Board received one comment from a neighbor, and asks Clerk Rubin to read it into the record. Ms. Rubin reads as follows:

“My name is Glen Countryman. I received a letter from the ZBA regarding David King’s request to build a single bay garage. I am a neighbor to Dave and I am totally in favor of the ZBA approving his request for an area variance. There are many homes in our neighborhood with double garages and David should be able to do the same. Respectfully, Glen Countryman.”

Clerk Rubin also notes she is connected to the ZBA Office email account, via a smartphone, which also receives notification if there is a voicemail in the office’s phone mailbox. Ms. Rubin notes for the record there are no additional emails and no voicemails at all, regarding public comment for the King’s proposed garage.

Chairperson Karakassis asks Mr. King for Glen Countryman’s address, to which Mr. King replies it is number four Hewlett Road. Victoria Polidoro states the applicant should give a brief overview of the project, for any member of the public watching the meeting via video. Mr. King states his plan is to add a 300 square foot, single-bay, attached garage, and further states there are currently stakes in the ground outlining the new garage. Clerk Rubin displays the drawings, submitted by the applicant, which represent front and side elevations, and a floor plan, on the screen. Mr. King identifies the roof line, and notes it is very nearly the same as the current garage. Jim Hegstetter asks the applicant if he has considered installing a side window, to which Mr. King replies he has not.

Chairperson Karakassis asks the Board if it has anymore questions, to which the Board members present reply they do not. At 7:11 pm Chairperson Karakassis asks for a motion to close the public hearing. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor of closing the public hearing.

Chairperson Karakassis reads through the six questions, the responses to which are noted on the Variance Resolution [See attachment A]. Ms. Karakassis asks the Board if it has any further questions or comments, to

which Jim Hegstetter replies he drove by the site, and has no further questions, but suggests the addition of a side window. Chairperson Karakassis also states she has visited the site, and has no further questions or comments. Chris Carney he has driven by the site, and states he finds the proposed garage consistent with existing conditions in the neighborhood.

At 7:20pm asks for a motion to adopt the variance resolution for ZBA application 21-01 King for one area variance. At 7:20 pm Jim Hegstetter so moves, Chairperson Karakassis seconds, and all Board members present vote in favor of granting the requested variance.

Chairperson Karakassis reads the remote meeting statement as follows, into the record.

“Pursuant to Executive Order No. 202.1, and advisories issued by Federal, State, and Local officials, related to the COVID-19 virus, the Zoning Board of Appeals will hold the meeting remotely. There will be no in person gathering at the Town Hall. The meeting will be held by video conference and can be viewed at:”

[https://www.youtube.com/channel/UCaDQcpNaCp3cV1Z6loBbPcA?view\\_as=subscriber](https://www.youtube.com/channel/UCaDQcpNaCp3cV1Z6loBbPcA?view_as=subscriber)

## **Review**

Dennis Kanuk application for two area variances to relocate a single story, vintage diner structure to the subject parcel, with the intent to create a new, specialty donut shop. The façade of said structure is approximately 38% of the principal lot frontage length. The Town of Red Hook Zoning Law, Section 143-49.1(K)(10)(a) requires a minimum building façade length of 70% of the length of the principal lot frontage line, and Section 143-49.1(K)(6) requires a minimum building height of two stories within the Commercial Center. The subject parcel is located at 7269 South Broadway, in the Traditional Neighborhood – Commercial Center (TND-CC) Zoning District, of the Town of Red Hook.

Chairperson Karakassis invites the applicant to present his proposal, and, in particular, to state why the applicant is requesting the above two area variances. Zak Hall of the firm KDA+FD, representing the applicant, Dennis Kanuk, asks Clerk Rubin if he can share the screen. Ms. Rubin states this does not appear to be enabled, and pulls up the drawing set

submitted by the applicant. Mr. Hall refers to the drawing of the Existing Site Plan, stating the applicant is proposing to add a donut shop on the parcel which currently contains the former 3130 SF Bottini building, and a single-family residence. Mr. Hall states both buildings use a private well and septic system, and further notes the applicant proposes to remove the single-family residence, and add a donut shop to be housed in a 1950s historic diner car. Mr. Hall requests Clerk Rubin to display the images of the Daytime and Evening Renderings. Chairperson Karakassis asks Mr. Hall to state the height of the proposed diner, to which Mr. Hall replies the diner car is ten feet high, and a proposed façade on the roof will add an additional four feet to the height. Clerk Rubin indicates this façade on the rendering and asks Mr. Hall to confirm he is referring to it, which he does.

Mr. Hall indicates the Site Plan and states the project will include landscaping, which he refers to as streetscaping, on both sides of the donut shop, and a 42' fence. Mr. Hall also states the project will also include upgrades to the parking areas for both buildings. Mr. Hall states the proposed fence and streetscaping will achieve the 70% minimum building façade requirement. Mr. Hall states the historic diner structure is single story, and further states the applicant does not wish to alter the appearance of the structure in order to create a second story.

Mr. Hall refers to a table, which he displays, on the screen, which he states compares the lot size of 25-30 properties in the TND-CC to the linear frontage of each lot. Mr. Hall states the Hannaford Supermarket has 750.25 square feet of lot size per linear foot of lot frontage, and further states Hardscrabble Plaza has 982 square feet of lot size per linear foot of lot frontage. Mr. Hall states the subject parcel has 192 square feet of lot size per linear foot of lot frontage, and further states the frontage is long, but the lot itself is not deep. Mr. Hall states the lot has no municipal water or sewer, and further states the parcel cannot support the required minimum building façade length [70% of lot frontage length], and the required building height minimum of two stories.

Chairperson Karakassis states the existing façade of the former Bottini building and the proposed diner combined equal a building façade length of approximately 110 feet, and further states the applicant needs a building façade length of 210 feet to meet the code requirement. Victoria Polidoro states the applicant is proposing street screening to meet this requirement, and further notes, in this case he could apply for an interpretation instead of

a variance. Planning Board Chairman, Sam Phelan, asks what the total lot frontage is, to which ZBA Chairperson Karakassis replies it is 300 feet.

Victoria Polidoro asks ZEO, Bob Fennell, to elaborate on the proposed street screening, to which Mr. Fennell replies street screens are not calculated in the required minimum building façade. Chairperson Karakassis states the definition of building façade from the Town of Red Hook Code, as “the face or front of a building, not a fence or trees”.

Zak Hall, referring to a hypothetical development of the lot, he is presenting to the Board, as an illustration of the lot’s limitations, states there may be some way to adjust the numbers. Chairperson Karakassis states she finds there are calculation problems with the hypothetical case study he has proposed on the applicant’s behalf, insofar as the parking lot numbers are overestimated. Mr. Hall replies there is more than 50% overlap between the septic system and the parking area. Chairperson Karakassis ask Mr. Hall to confirm the proposed diner structure is the centerpiece of the project, and suggests a less intensive use of the remainder of the lot to achieve the required minimum building façade length requirement, and further states not every parcel must be adaptable for every single use.

Applicant Dennis Kanuk states the proposed project is to place the diner on the parcel, and further states he is not sure how many iterations of a hypothetical are needed. Chairperson Karakassis states it is the applicant’s consultant who is presenting the hypothetical lot development to illustrate why the zoning requirements will not work on the lot. Chairperson Karakassis further states she finds the primary issues the applicant and his representative have raised are aesthetic in nature, and states she would like to see a proposal that honors the aesthetics, but is closer to zoning compliance. Jim Hegstetter asks the applicant if the parcel has already been purchased, to which Mr. Kanuk replies he and Ms. Jones are in contract to purchase the lot. Jim Hegstetter states he is familiar with the subject parcel, and further states he understands the applicant is pigeon-holed by the size of the parcel. Mr. Hegstetter states he is not sure what the applicant could do to make it more conforming. Victoria Polidoro states the Board is not trying to tell the applicant what to do, but merely asking if there are alternatives for the use that achieve the objective. Ms. Polidoro states it is not unreasonable for the Board to ask such questions. Ms. Polidoro asks the applicant if the lot can be subdivided so that the diner occupies a larger percentage of the subdivided lot, to which Mr. Hall replies

there would be issues with the septic and parking. Jim Hegstetter states it is challenging without municipal sewer. Chris Carney states has no questions at this time.

Victoria Polidoro states the TND is a tightly developed neighborhood, and further notes most such developments have sewer infrastructure. Jim Hegstetter states the Board needs to consider existing conditions, which would require the installation of a septic system. Mr. Hall states eventually a two-story building could be constructed on the subject parcel, and further notes the District seems to be 90% non-compliant with current zoning requirements, to which Chairperson Karakassis replies these structures predate the zoning requirement. Victoria Polidoro asks the applicant if he has considered a deck off the side of the building, to which Mr. Kanuk replies it is an open area which will not count as building façade. Mr. Hall again proposes the fence.

Chairperson Karakassis comments if the diner is the centerpiece of the project, then the former Bottini building could potentially house a less intensive use such as offices. Mr. Kanuk replies he wants to open the donut shop first, and states the existing commercial building has potential for a restaurant and retail operations. Mr. Kanuk further states he would be looking for a good tenant whose operation would work well with the donut shop and Hardscrabble Plaza. Mr. Kanuk further states he needs more parking to achieve this use. Mr. Hall displays the Septic Plan, which he states shows the maximum parking. Mr. Kanuk states the design standards in the TND require a minimum setback of 18 feet.

Chairperson Karakassis asks the applicant to confirm the venting can only be done on the roof of the donut shop, which he does. Chairperson Karakassis asks the Board members present if there are any further questions. Jim Hegstetter and Chris Carney each reply they have no further questions. Victoria Polidoro states the applicant has an application before the Planning Board for Site Plan review, and notes the Planning Board intends to circulate to the ZBA to serve as Lead Agency for a coordinated review under SEQRA. Chairperson Karakassis states the Board will wait to receive a letter from the Planning Board requesting Lead Agency status, and asks Victoria Polidoro if the Board can vote now to grant the Planning Board's request, to which Ms. Polidoro replies it can. Jim Hegstetter and Chris Carney agree. At 8:12 pm Chairperson Karakassis asks for a motion for the ZBA to grant the Planning Board assuming Lead Agency status

under SEQRA. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor.

Ms. Polidoro states the full application will need to be referred to the County Planning Department. At 8:13 Chairperson Karakassis asks for a motion to refer the appeal to the County Planning Department. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor. Ms. Polidoro states the ZBA cannot vote on the requested variances until the Planning Board has completed the SEQR review.

Chairperson Karakassis asks the applicant and his representative if there is any room for compromise in the project, which would bring the proposal more into compliance with zoning, to which Mr. Kanuk replies the proposed fence is an attempt at compromise. Mr. Kanuk further notes there is no way to add a second story, and no way to increase the building façade in his project. Mr. Kanuk states he is not applying for a use variance for the lighting he had originally proposed, and he also states he is not going with the proposed sign, which was not compliant with zoning.

Victoria Polidoro states the applicant is asking the ZBA to evaluate what is proposed. Jim Hegstetter asks the applicant if the diner is on the Historic Register, to which Mr. Kanuk replies it is not. At 8:19 pm Chairperson Karakassis asks for a motion to schedule a public hearing for the May 12, 2021 ZBA meeting. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor.

Victoria Polidoro asks the Board if it has any questions for the Planning Board Chair, to which Mr. Phelan comments the basic decision before both Boards is whether or not the proposed structure is consistent with design standards in the TND-CC. Mr. Phelan further comments pedestrian access has not been addressed, and also notes in terms of materials, a metal structure is not contemplated in the zoning ordinances. Mr. Phelan states the Planning Board is reviewing design standards, and the ZBA is reviewing two requested area variances. Jim Hegstetter confirms with Mr. Phelan the next Planning Board meeting is the following Monday.

Zak Hall states he does not agree with the ZEO's determination that the proposed lighting needed a use variance, which is why he submitted it as an area variance. Victoria Polidoro states a use variance is for some use

which is prohibited by the Zoning Ordinance, and further notes the lighting originally proposed is prohibited. Ms. Polidoro states the applicant may appeal the the ZEO's determination or apply for a use variance. Mr. Kanuk states he is not married to the proposed lighting.

## **ADJOURNMENT**

At 8:30 pm Chairperson Karakassis asks for a motion to adjourn the meeting. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor of adjourning the meeting.