

Town of Red Hook Zoning Board of Appeals  
Draft Minutes May 12, 2021

## **Preliminaries**

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

The meeting is called to order at 7:05pm. 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 is Chris Klose. Victoria Polidoro, ZBA Attorney, ZEO Bob Fennell, and Anne Rubin, ZBA Clerk are also present. ZBA Applicants and Consultants for 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 June 9, 2021 meeting. The Board will also vote on the April 14, 2021 meeting minutes at that time.

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

Chairperson Karakassis has no comments on the Planning Board Minutes. She notes the former ZBA Chair, Nick Annas passed away, unexpectedly, and acknowledges his longtime service to the ZBA. Chairperson Karakassis further states she has no information regarding when the Town Board will appoint a new ZBA member to fill the vacancy.

### **Public Hearing**

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)

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 notes, though the Planning Board is Lead Agency, it has requested comment from the ZBA regarding environmental impacts. Chairperson Karakassis asks the Board members present if they have any comments regarding environmental impacts, they wish to share with the Planning Board, to which Jim Hegstetter replies he has seen the email, and has no further comments. Chris Carney states he has no comments. Chairperson Karakassis states the ZBA will accept the Planning Board's determination, since there are no other opinions.

Chairperson Karakassis invites the applicant to present his proposal prior to opening the public hearing. Zak Hall, of architecture firm KDA+FD, representing applicant Dennis Kanuk, states the proposal consists of relocating an historic diner structure to the subject parcel, to create a donut shop, and removing a single-family residence, currently on the property. Mr. Hall states, since the April 14 ZBA meeting, the applicant has removed the fencing from the Site Plan, and moved the donut shop to the south, to address Planning Board's request for future options to meet the frontage [building façade] requirements in the TND-CC. Mr. Hall further comments the applicant has added a green space to the north, added street trees, and is planning improvements to the Bottini building to make it more compliant with TND-CC zoning.

Chairperson Karakassis asks the applicant why he cannot comply with the building height and frontage [building façade length], requirements in the TND-CC. Mr. Hall states regarding frontage [building façade length], the who project centers around relocating the historic diner to the site. Mr. Hall

further comments a bigger building would increase the size of the septic system, further noting the septic system is already 50% larger than what he had originally planned. Mr. Hall states a larger building would also require additional parking. Mr. Hall further states the subject parcel size and shape constrains the building sites, septic and parking, and comments the site does not have municipal water or sewer. Mr. Hall describes the site as a stepping stone for the TND-CC, stating rote compliance with the Zoning Code will not permit the historic diner to be there, and stating larger buildings do not work on the site.

Chairperson Karakassis asks Mr. Hall to confirm that the applicant's aesthetic vision would be made less pleasing by complying with the zoning requirements for minimum building height, and façade length, which Mr. Hall confirms, further stating the historic dining car has a certain height and dimensions. Jim Hegstetter states there are limitations because of the nature of the building. Mr. Hegstetter further states he is concerned about the frontage [building façade length], and limiting it, and states he is not sure what the other possibilities would be.

Mr. Hall reiterates the architectural and site limitations, stating a bigger building would not work with the septic system, and comments if the applicant increased the building size the site could not support it.

Chairperson Karakassis asks if there is a revised drawing that reflects the changes to the septic system, and asks what the new perc tests are referring to. Mr. Hall replies the tests revealed the oils are not well-drained, and the septic system needs to be 50% larger than originally planned. Mr. Hall further states the Bottini building does not have to be a restaurant and retail operation, and notes, the applicant, however is looking to make some use of the building. Chairperson Karakassis asks Mr. Hall how far the applicant can go to comply with zoning, further noting the applicant has not yet demonstrated nothing is possible. Mr. Hall states the proposed frontage [building façade length] is a stepping stone. Chris Carney asks the applicant why the proposed diner site has been moved 20 feet to the south, to which Mr. Hall replies the Planning Board and Dutchess County Planning Department asked that the building be moved to the south to provide more green space, and options for future development to the north. Kate Karakassis states the applicant needed, under the General Municipal Law, a vote of four Board members in favor to receive a variance, but if he moves the building, as requested, he will only need a vote of three.

Chairperson Karakassis asks the applicant what will happen to the diner, if the donut shop is not viable, and further asks if it would be moved elsewhere. Rhiannon Jones and Dennis Kanuk reply they have no intentions of moving the diner elsewhere. Chairperson Karakassis asks the applicant if they intend to pursue structural changes to the diner, which would preclude it from ever being moved off the site on the subject parcel, to which Mr. Kanuk replies no. Chairperson Karakassis asks the applicant what he intends to do with the northern section of the subject parcel, to which Mr. Kanuk replies it will be used for parking and wastewater infrastructure. Mr. Kanuk further comments if no municipal sewer is available, the site cannot be further developed. Rhiannon Jones states the owner of the adjacent parcel to the north does not wish to sell, and further comments they may be able to work something out with this land owner.

Chairperson Karakassis refers to the revised Site Plan, page A002.002-4, stating four parking spots were lost between this and the previous iteration. Mr. Kanuk states the previous drawing showed parking for the Bottini building as a full restaurant use, and the present drawing reflects the number parking spots for a smaller restaurant, and a refuse area.

At 7:43 pm Chairperson Karakassis asks for a motion to open the public hearing. Jim Hegstetter so moves, Chris Carney seconds, and all Board members present vote in favor of opening the public hearing.

Alan Monarchi, residing in the single-family residence, states he is not in favor of the proposal, since he will be losing his home, and has not been able to find another such property to rent in Red Hook, where his children attend school. Mr. Monarchi states the applicant should use the existing building for the donut shop. Mr. Monarchi, addressing the Board, asks if the applicant was aware of the zoning requirements prior to purchasing the subject parcel, to which Mr. Kanuk replies he and Ms. Jones checked the zoning, and further notes they are still in contract for the purchase of the parcel. Mr. Kanuk also states he intends to look for a 2000SF restaurant and 1000 SF retail operation as tenants for the Bottini building.

Steve Cole – not the oonymous Town of Red Hook Building Inspector, of Rokeby Road, states the proposal does not fit in with the Master Plan, and further states the site of the former Bottini Garage will have soil contamination.

Sam Harkins states he was on the Planning Board for 14 years, and oversaw the Plimpton Hills, and Ruge's Building, which were existing structures at the time of the adoption of the TND-CC zoning. Mr. Harkins further states he attended some 200 meetings of the working group which created the TND-CC. Mr. Harkins states these two sites complied as much as they could with the new zoning requirements, and further states reconfiguring the subject parcel, per the applicant's request would create a precedent, which would forever alter the zoning requirements of the TND-CC. Mr. Harkins states the Town risks being sued if future requests for variances, based on the current request, are not granted, if this current request is granted.

Mr. Harkins states much thought and planning went into the creation of the TND-CC, and further comments existing structures in the District did not have to comply with the new zoning requirements. Mr. Harkins states the Board is now entertaining a request for a new structure needing significant variances. Mr. Harkins states, regarding the septic issue, there are other commercial zones in Red Hook, and other Towns, which may not have the same constraints. Mr. Harkins states the ZBA should vote to uphold the zoning as it has been written and adopted.

Victoria Polidoro states one of the standards for granting or denying a variance is weighing the benefit to the applicant versus the detriment to the community. Mr. Hall asks Ms. Polidoro when the TND-CC was created, to which she replies in 2011 and she further asks how many projects have there been in the TND-CC since its adoption. Sam Harkins replies the Traditions subdivision behind the Lyceum Theatre complied with every zoning requirement of the District. Mr. Harkins states the Plimpton Hills and Ruge's Building involved the re-use of an existing building. Mr. Harkins states the current proposal involves a new building, further stating he does not think the requested variances should be granted. Zak Hall states the zoning requirements for the TND-CC are more stringent in the CC area than the TND area of the District.

At 8:10pm Chairperson Karakassis asks for a motion to continue the public hearing. Chris Carney so moves, Jim Hegstetter seconds, and all Board members present vote in favor.

Chairperson Karakassis asks the Board members present to state their thoughts on adopting a policy that ZBA meetings end by 9:30 or 10:00pm. Jim Hegstetter states he is in favor, but prefers to wait for Board member Chris Klose, before making a decision. Chris Carney states he agrees with waiting until Mr. Klose is present. Chairperson Karakassis states she expects the discussion to resume at the June or July meeting.

## **ADJOURNMENT**

At 8:15 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.