

Town of Red Hook ZBA  
Draft Meeting Minutes  
October 13, 2021

**Preliminaries**

**Roll Call**

Chairperson Karakassis calls the meeting to order at 7:00pm. Present are Chairperson Karakassis, Chris Carney, and Chris Klose. Absent is Jim Hegstetter

At 7:02pm Chairperson Karakassis asks for a motion to open the meeting. Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor of opening the meeting.

**Approval of Draft Minutes: 7-14-21, 9-8-21**

Chairperson Karakassis notes Board member Jim Hegstetter is absent, and remands the discussion and vote to the next ZBA meeting, stating she had to recuse herself for part of the meeting, and could not vote on the draft minutes. At 7:03pm Chairperson Karakassis asks for a motion to approve the September 8, 2021 Minutes. Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor of approving the September 8, 2021 Minutes. There are no comments or questions regarding minutes.

**Planning Board Minutes**

Chairperson Karakassis informs the Board the Mighty Donuts applicants are before the Planning Board, with plans to modify the existing Bottini Building, and keep the single-family residence on the parcel.

**Comments from the Chair**

Chairperson Karakassis notes a member of the public has requested to attend the meeting from inside the Zoom room, and further notes there is no public comment during the meeting. Chairperson Karakassis also states the ZBA Office can accommodate requests to access the meeting directly, instead of viewing it on the RHZBA Meeting YouTube Channel, up to 24 hours prior to the meeting, and further states if this becomes onerous, the Board will revisit this protocol.

**Review**

ZBA 21-05 Phillip Zemke, representing Steven Bear, application for an Area Variance to construct a 190 square foot connector addition between the house and garage, which will result in a 11.7% Building Coverage. Pursuant to the Town of Red Hook Schedule of Area

and Bulk Regulations, Section 143-12 the permitted maximum Building Coverage in the Institutional Zone is 5%. The subject parcel is located at 398 Spring Lake Road, in the Town of Red Hook, in the Institutional Zoning District.

Chairperson Karakassis reads the agenda item and asks the property owner's representative, Phillip Zemke, to describe the proposal. Mr. Zemke states his client, Mr. Bear, received a variance in [2020] to construct a garage, and removed a shed from the property, which resulted in a lot coverage of 11%. Mr. Zemke further states both the house and the garage roofs contribute snow to the area between them, and notes Mr. Bear would like to build an enclosed connector between the house and garage, so that during inclement weather he can drive into the garage, and go into the house, without having to shovel snow, or go outside.

Mr. Zemke states the addition is as small as they could make it, at 90 square feet. Mr. Zemke notes the proposed addition adds .7% to the lot coverage. Mr. Zemke also states the project requires a Special Permit, and further notes they are seeking an extension of the original NYSDEC permit they obtained, to build the garage, in order to be able to construct within 100' of the lake. Mr. Zemke states the NYSDEC is reviewing their application at this time.

Mr. Zemke states his client's hardship is due to his property being a non-conforming lot in the Institutional Zone. Mr. Zemke states the majority of the lots, both on the Red Hook, and on the Milan side of the lake are one acre or less, basically a lakeside community. Mr. Zemke states the superimposition of the Institutional Zone, or even a three-acre zone, creates restrictions in terms of what his client can build on his property.

Mr. Zemke states the addition is minimal, one-story, will fit in with the house and garage, and will resolve the snow issue, and some grading problems. Mr. Zemke states Mr. Bear has attached a letter to the application, expressing his thoughts, and notes for Mr. Bear it is primarily a safety issue.

Chairperson Karakassis asks the Board if it has any questions or comments. Chris Klose and Chris Carney each state they have no comments or questions. Chairperson Karakassis states the variance request is pretty straightforward, and confirms with Mr. Zemke the proposed addition is basically a type of hallway or pass-through. Mr. Zemke states the proposed addition will include a minimal amount of storage, the front door will now face the street, as a result of the proposed addition, and also states it will resolve some grading issues, and will include some stairs.

Chairperson Karakassis states, since the Board has no further questions or comments, and since the documents are clear, the Board can move to schedule a public hearing. At 7:12pm Chairperson Karakassis asks for a motion to classify the action as Type II under SEQR. Chris Klose so moves, Chris Carney seconds, and all Board members vote in favor of classifying the action as Type II under SEQR. At 7:13pm Chairperson Karakassis moves to set a public hearing for the November 10, 2021 meeting. Chris Klose seconds, and all Board members present vote in favor of setting a public hearing for the November

10, 2021 meeting. Clerk Rubin notes the submission deadline for this meeting is Tuesday, November 2, 2021.

## **Review**

ZBA 21-06 Jane Levi, represented by Richard Croughan, application for an Interpretation by Town of Red Hook ZEO, Bob Fennell's Notice of Violation, dated August 31, 2021, specifically regarding a Building Permit #4-84, issued February 14, 1984, allowing for the construction of a three-unit apartment, as an addition to a non-conforming use. The owner at the time, Rancich, ignored the limits of the permit, and constructed a six-unit apartment; a violation of the terms of the permit. Section 143-56A of the Town of Red Hook Zoning Law limits the number of living units on the subject parcel to three. The subject parcel is located at 30 Blue Echo Road, in the Town of Red Hook, in the R1.5 Zoning District.

Chairperson Karakassis reads the agenda item, and notes Patrick Logan of Rodenhausen, Chale, & Polidoro, has offered to present the history of the buildings on the subject parcel.

Mr. Logan indicates an aerial photograph from the 1970s includes a house with two dwelling units and a garage with a third dwelling unit. Mr. Logan states there is a building permit from 1974 for an addition, and notes an aerial photograph from 1980 shows an "L" shaped unit. Mr. Logan states a 1983 ZBA variance request for a two-story, six-unit building, increasing the density, was denied. Mr. Logan states a building permit for a single-story, three-unit building did not require an area variance at the time. Mr. Logan notes a two-story, six-unit building was built instead, which is shown in an aerial photograph dating from 1990. Mr. Logan states the Town of Red Hook issued a violation, and the property owner plead guilty, but never complied with the order to bring his property into compliance. Mr. Logan states the two-story, six-unit building was never permitted, and is still standing on the property today. Mr. Logan states the ZEO realized what had happened and issued a Notice of Violation for density. Mr. Logan states the property owners were permitted to construct three units, but instead constructed six.

ZBA Attorney, Victoria Polidoro states when a property is sold, generally, the title company does a search and checks with the Building Inspector for violations. Ms. Polidoro notes Building Inspector Steve Cole did not see any permits in the Municipality System, and also notes ZEO Bob Fennell checked the physical files and found the violation. Chairperson Karakassis asks when the ZEO checked the database, to which Mr. Fennell replies in 2015. Chairperson Karakassis confirms with Mr. Fennell he found the violation in the physical files in 2021. Victoria Polidoro states the applicant's representative, Mr. Croughan, is appealing the ZEO's decision. Chairperson Karakassis asks the Board if it has any questions or comments. Chris Carney asks Ms. Polidoro to confirm the requested Interpretation is an appeal regarding the ZEO's violation letter, which Ms. Polidoro confirms. Chris Klose states the violation letter is very clear, but it involves a murky situation from years ago. Chairperson Karakassis asks Mr. Croughan to present his appeal.

Mr. Croughan states he is an attorney from Goshen, NY, and notes his client is also an attorney. Mr. Croughan states his client did a title search, and refers to "Exhibit A" a "Passed Inspection" letter, dated 9/15/2015, in which each of the units was noted, and found to have passed a fire safety inspection. Mr. Croughan states the Town was aware of the units, and also states his client is an "innocent but savvy purchaser". Mr. Croughan refers to a memorandum from the Town of Red Hook Building Department, dated 7/1/2021, [Exhibit B] stating "No Building Permit ever issued to parcel", and signed by ZEO Robert Fennell, stating when his client did the title search, there were no open building permits. Mr. Croughan states when his client went to refinance the mortgage, the title company asked for a new certification, and the issue came out. Mr. Croughan states had his client known about the violation he would have asked for a price adjustment on the part of the seller. Chairperson Karakassis asks why Mr. Croughan feels the ZEO's Notice of Violation is incorrect, to which Mr. Croughan responds by referring to the "passed inspection" letter of 9/15/2015. Chairperson Karakassis states the letter to which Mr. Croughan is referring is a fire inspection, to which Mr. Croughan responds it acknowledges nine dwelling units.

Chairperson Karakassis states said letter has no legend to explain the abbreviations, and does not explain issues with fire. Victoria Polidoro asks Bob Fennell to explain the abbreviations in the Exhibit A letter, to which Mr. Fennell responds the fire inspection letter refers to the presence of fire and carbon monoxide detectors, fire extinguishers in the kitchens, and the absence of oily rags or blocked egresses, and further notes it has nothing to do with the number of dwelling units contained therein. Mr. Fennell also states the Uniform Fire Prevention Code requires an inspection of buildings containing more than three units, every three years.

Richard Croughan asks why the existence of nine apartments was not a red flag at the time of the Exhibit A letter, since their permissibility is now being contested, to which Chairperson Karakassis replies it has no relevance to the existing violation. Mr. Croughan refers to Exhibit B, which states "no open permits", to which Victoria Polidoro replies Mr. Fennell amended/retracted that letter. Mr. Fennell states he amended the letter on 7/1/2021 stating he wanted time to find the history behind this property, and further notes he had to find it in the basement archives. Mr. Croughan asks why the Building Department stated there were "no open permits", to which Mr. Fennell replies in 1984 a permit was issued to allow three units, but it was violated so a Certificate of Occupancy was never issued, so it was effectively open. Chris Klose states if there is no Certificate of Occupancy a building cannot be lawfully occupied, so this building has been in violation for 34 years.

Richard Croughan states his client purchased the property in 2015, after a title search, in good faith, and further notes, after speaking to Mr. Logan, he may want to apply for an Area Variance on his client's behalf. Chairperson Karakassis responds that he would need a Special Permit from the Planning Board, to apply for an Area Variance. Victoria Polidoro states Mr. Croughan can apply for the Area Variance in time for the next ZBA meeting, and further notes the Board can set the public hearing for the present appeal for

an Interpretation, and at the November meeting hold the public hearing for the Interpretation, and a review meeting for the Area Variance request. Chris Klose notes the building has been in violation for a long time, and asks what happens to the accrued fines for 34 years. Mr. Klose further notes NY is a Caveat Emptor state, and states he finds Bob Fennell's reading of the law correct.

At 7:37pm Chairperson Karakassis asks for a motion to set a public hearing for the November 10, 2021 meeting. Chris Klose so moves, Chris Carney seconds, and all Board members vote in favor of setting a public hearing for the above appeal, for the November 10, 2021 meeting. At 7:38pm Chairperson Karakassis moves to declare the action Type II under SEQR. Chris Klose seconds and all Board members present vote in favor of declaring the action Type II under SEQR. Victoria Polidoro notes in parallel with the zoning issues the Board is considering, the Building and Zoning Office is also ruling on building inspection issues, which include a professional survey of what is missing for life-safety issues, such as sprinkler systems and fire separation between apartments. Mr. Croughan states his client is hiring an architect to do this. Mr. Fennell states whoever does this will have to work with Building Inspector, Steve Cole. Victoria Polidoro states under New York State Law, if there is an open permit, with no Certificate of Occupancy, the Certificate of Occupancy must be issued according to the current Building Code, and further notes the question is if the building meets the current Building Code. Richard Croughan states he thinks the building only has to meet the 1984 Building Code, but that the smoke alarms must be hard-wired. Chairperson Karakassis states Mr. Croughan should review that law. Chris Klose states he would like this point clarified, which code standard, 1984, or current, since he is concerned about safety in a multi-unit structure.

At 7:42 pm Chairperson Karakassis moves to adjourn the meeting. Chris Klose seconds, and all Board members present vote in favor of adjourning the meeting.

The next regularly scheduled ZBA meeting is on Wednesday November 10th, 2021, at 7:00 pm. Pursuant to Governor Hochul's signing of Legislation (S.50001/A.40001), which "Allows New Yorkers to Participate in State and Local Government Meetings Virtually to Reduce the Risk of COVID-19 Spread", and which "Helps People With Disabilities Participate in Their Government", the Town of Red Hook ZBA has elected to meet remotely.

A link to the remote meeting will appear on the ZBA's Meeting Agenda, one week before the meeting. Interested parties may contact ZBA Clerk, Anne Rubin at (845)758-4624, or [arubin@redhook.org](mailto:arubin@redhook.org), up until 3:00pm of the day of the meeting, if there are any questions regarding viewing a remote meeting.