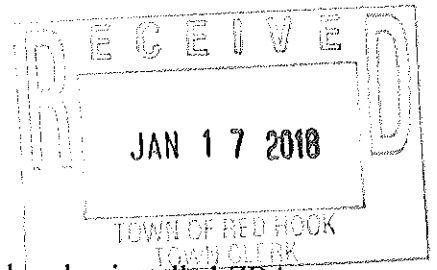


Town of Red Hook  
Zoning Board of Appeals Meeting Minutes (Draft)

January 10, 2018



**CALL TO ORDER**

The meeting was called to order at 7:00 pm by Chairman Nick Annas, who also installed ZBA Alternate, Kate Karakassis, as a full voting member, at this time.

**ROLL CALL**

Members Present: Chairman Nick Annas, Kris Munn (arrives at 7:10), Chris Klose, Chris Carney, Tim Ross and ZBA Alternate Kate Karakassis, installed as a full voting member by Chairman Nick Annas

Members Absent: Jim Hegstetter

Also Present: Chris Chale, Town of Red Hook Attorney, standing in for Victoria Polidoro, ZBA Attorney

**PRELIMINARY BUSINESS**

Minutes from December, 2017

At 7:01pm Chairman Annas asks for a motion to approve the ZBA meeting minutes from December 10th, 2017. Kate Karakassis so moves, Chris Carney seconds. Chairman Annas notes two errors on page two, paragraph two, line four, and line nine. The first reads "Mr. Simmons he has been sent this far....." and should read "Mr. Simmons *states* he has been sent this far....". The second reads "...if the Board does not know how many employees with be there,..." and should read "...if the Board does not know how many employees *will* be there,....".

At 7:03pm Tim Ross, Chris Klose, Chairman Annas, Chris Carney and Kate Karakassis vote AYE. The December 10, 2017 ZBA revised Minutes are adopted.

Planning Board Minutes/ Comments from the Chairman:

There are no comments from the Board at this time, regarding the Planning Board minutes. Chairman Annas has no comments at this time.

At 7:04pm Chairman Annas asks for a motion to open the public hearing. Chris Klose so moves and Tim Ross seconds. Mr. Ross confirms the Board is conducting a coordinated review with the Planning Board for SEQR. Mr. Ross asks if this situation will put the Board in a chicken and egg situation [assuming the Board cannot draft a variance resolution until the SEQR findings are completed by the Planning Board, and the Planning Board cannot complete the SEQR findings

without a variance resolution, from the ZBA]. Town Attorney Chris Chale clarifies, the ZBA consented to the Planning Board acting as lead agency. She further notes the Planning Board has circulated a notice to the ZBA, and the ZBA has consented. [The proposed action – the Bard College Master Plan] is a Type I action. Tim Ross concurs, stating, however, the proposed variance is not a Type I Action. Ms. Chale states, according to the Planning Board’s review, the variance request before the ZBA is part of the Master Plan. Mr. Ross asks Ms. Chale to confirm, the ZBA must await the completed SEQR findings from the Planning Board, and keep continuing the public hearing, until such time. Ms. Chale confirms this is correct. At this time, Anne Rubin displays a map she obtained from the Planning Board, on the smart screen, from the 10-27-17 iteration of the Bard College Master Plan, showing the area of the Master Plan, including the subject parcel of the ZBA variance request.

At 7:05pm Tim Ross, Chris Klose, Chairman Annas, Chris Carney and Kate Karakassis vote AYE. The public hearing for ZBA Appeal 17-08 Bard College is opened.

Ms. Chale asks Chairman Annas to state the SEQR status for the record, and the public hearing evidence of notice. Chairman Annas states the Board has agreed to the Planning Board assuming lead agency status, and it has signed off on that. Chairman Annas further states, until [the SEQR process] is complete, the ZBA cannot vote [on the proposed action contained in the variance request]. Chairman Annas states he spoke with Sam Phelan, [Chairman of the Planning Board], who stated they [the Planning Board] want[s] to clear the issue of the use of those buildings, as educational office buildings. Chairman Annas further comments if the applicant is currently using them for that purpose, it is in violation of the ordinance. Chairman Annas states the applicant must cease and desist, or get a variance. Chris Chale clarifies this last point by stating [Bard College] has made an application to the ZBA for a variance, that is required to address the issue [of non-compliance], the SEQR issue not the same, however, because they are required to look at this [variance request] as part of the Master Plan. Ms. Chale states this is the basis for the coordinated review with the Planning Board. She further notes the Planning Board will have to complete its SEQRA review, before the ZBA can vote on the variance request, however the Planning Board does not have to wait for the ZBA to vote on the variance, in order to complete its SEQR findings – it is not a chicken and egg [scenario].

## **Public Hearing**

Appeal 17-08, Charles Simmons, Director of Physical Plant, Bard College, representing Bard College, application for an area variance to use an existing residence as a small office, for the John Cage Trust, as part of the Bard College Educational Use, on a parcel of 5.04 acres. Section 143-82 A of the Town of Red Hook Zoning Law requires 25 acres for an Educational Institution in the RD3 Zoning District. The subject property is located at 15 Whalesback Road, in the RD3 Zoning District.

Chris Chale asks Chairman Annas to confirm for the record the Board completed the publications for the public hearing. Anne Rubin confirms the public hearing notices were published in the Poughkeepsie Journal and the Kingston Daily Freeman, on 12/29/17. She also confirms the public hearing notices were sent to neighbors on 12/26/17.

Chairman Annas asks if there are any members of the public present who would like to comment on the variance request. Adam Castiglione of 7 Whalesback Road, which he indicates on the displayed map, as east of the subject parcel. Mr. Castiglione states a portion of the subject parcel yard borders his driveway. He states his biggest concern [with the proposed use as an office building] is the potential for increased traffic in and out of the building, especially later in the day, since the headlights from cars shine directly into his bedroom. Mr. Castiglione further states, normal office buildings would not have hours [of operation] that late, but he comments he does not know what kind of office is being proposed. Mr. Castiglione states he also has a concern about the variance being merely for the single [stated] use, and not a variance in the actual zoning, such that they could build different types of properties on this parcel.

Donna Fisher, who states her driveway borders the other side, to the south, next to the Bard Feinberg House. asks if they can put a commercial building on [the parcel], take the existing residence down. She further asks [should the variance be granted] would the lot become zoned for commercial uses? Tim Ross replies, if the variance were granted, it would depend on what types of restrictions were place on the variance. Mr. Ross further states, typically, with a variance, it's made to meet just the bare minimum of what the applicant is looking for, so the chances of them going for a large office building there, any variance, if it were to be granted, would be too restrictive for that. Chairman Annas comments the Board would probably restrict [the variance] to the structure that exists right now, and retain it as a residential looking structure. Chairman Annas further comments the Board has done this before, by putting a whole host of constraints on a structure, and constraints on the number of employees, and also we can put constraints on the amount of traffic etcetera. Chairman Annas further states all of that part of it is to some degree negotiable with the applicant. Chairman Annas further comments the Board can also flat out deny [the variance request].

Chairman Annas confirms with Ms. Fisher she accesses her parcel between the two Bard College parcels. Chris Chale states there are two dog legs there, on either side. Chairman Annas asks for additional comments from the public. Chairman Annas states the Board cannot act on the variance request at the present meeting. He further states the Board cannot vote until the Planning Board has finished SEQR. Mr. Castiglione confirms Chairman Annas has stated the Board has the option to deny the variance request altogether, and further comments he does not know that that feels necessary, and further states these are relatively small concerns, [which would warrant] more of a restriction than anything else.

Chairman Annas states one of the problems with granting a variance is they run with the land, in perpetuity. He further notes no one knows how long Bard College is going to be around, or how long they want to use them as offices. Chairman Annas states [to the Applicant], it is his understanding Bard College will vacate them soon, if not already. Mr. Simmons replies [this is] possibly [the case]. Chairman Annas asks Mr. Simmons if Bard College might use them as student housing again. Mr. Simmons states it might, and states [the variance] would give the Bard College the flexibility, as far as the functionality of the house [is concerned], to do a couple of different things, whether it be residences, or faculty housing, or small office space that is in there now, which probably has less traffic than the other residences in the around it. Chairman Annas notes should a variance be granted, [the applicant] can use it, or discontinue using it at

some point, and the property can fall back to any use allowed by the [RD3 Zoning] District. Chairman Annas further comments they can abandon the office and then use it as residential again, for students, visitors or rent it out to permanent residents, or sell it. Chris Chale asks Mr. Simmons to confirm it is not a commercial office use Bard College is considering, but rather an office use in connection with an educational institution, which Mr. Simmons confirms. Ms. Chale states this proposed use is somewhat limiting [already].

Sheva Fruitman asks the Board if the applicant sells the property, would it have the same use? Tim Ross states if they sold it to a buyer that was not an educational facility, for example, if he purchased the property, he could not use it as an office building, because he is not an educational facility. Mr. Ross further comments Bard College could sell the parcel, and the [variance] runs with the land, but it would have to be a pretty selective sale [for the educational use, as an office building, to continue to be allowed on the parcel]. Ms. Fruitman asks the Board if provisions for cluster housing in the Bard College Master Plan would include the subject parcel, or the one adjacent to it. Mr. Simmons replies there are no provisions for cluster housing on either parcel. Ms. Fruitman asks the Board if the variance were granted, would Bard College be permitted to create cluster housing on the subject parcel. Chairman Annas asks for the acreage of the smaller parcel above [on the map]. Adam Castiglione states it is above 5 acres. Anne Rubin states it is 5.04 acres. Tim Ross states the larger parcel is about 15 acres. Chairman Annas states it is in the RD3 [Zoning District], and he supposes someone could purchase [the larger parcel] and subdivide it. Chairman Annas states, regardless of how the Board acts on the variance request, the subdivision can occur. He further states there is nothing the Board is doing which will prevent, or encourage that.

Chairman Annas states if there are no further comments, he will ask the Board for a motion to adjourn. Tim Ross states the Board still needs to continue the public hearing. Chairman Annas asks for a motion to continue the public hearing.

At 7:17pm Tim Ross moves to continue the public hearing to February 14<sup>th</sup>, 2018, at 7:00pm Mr. Ross addresses the public stating no more notifications will go out. He notes anyone wishing to comment should look at the calendar and Town website, and just attend the meeting. Chris Klose seconds the motion, and all are in favor.

At 7:18pm Chris Klose moves to adjourn. Tim Ross seconds, and all are in favor.