

Town of Red Hook Zoning Board of Appeals  
Approved Minutes (amended) March 09, 2022

**Preliminaries**

**Roll Call**

The meeting is called to order at 7:02pm. Chairperson Kate Karakassis states she is present. Board members Chris Carney, and Chris Klose state they are present, and a quorum for the meeting is established. Also present are ZBA attorney, Victoria Polidoro, assisting attorney, Patrick Logan, and Town of Red Hook ZEO, Bob Fennell.

**February 9, 2022 Meeting Minutes**

At 7:03 pm Chairperson Karakassis asks for motion to adopt the February 9, 2022 meeting minutes, and further asks the Board members if there are any comments or questions, to which Mr. Carney and Mr. Klose reply they have none. Chris Klose moves to adopt the February 9, 2022 meeting minutes, Chris Carney seconds, and the Board votes unanimously to adopt the minutes.

**Review of Planning Board Minutes and Comments from the Chairperson**

There are no comments at this time.

**Public Hearing**

Public Hearing ZBA 22-02 Adam and Michelle Castiglione, application for two Area Variances to construct a cottage with a garage below it, ten feet from the side property line, and having a gross floor area of 984 SF. Section 143-68E of the Town of Red Hook Zoning Law requires that the structure shall be set back 35 feet from the side property line, and Section 143-68A of the Town of Red Hook Zoning Law limits the gross floor area to 650 SF. The subject parcel is located at 7 Whalesback Road, in the Town of Red Hook, in the RD3 Zoning District.

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)  
At 7:05 pm Chris Klose moves to open the public hearing. Chairperson Karakassis seconds and all Board members vote in favor of opening the public hearing.

Chairperson Karakassis asks the applicants to describe their project. Adam Castiglione states he thought about the Board's suggestion to morph the current garage into an apartment, and build a second garage, and further states he thinks the current garage is too small for his family's needs, and it also has a staircase to the lower level of their house.

Chairperson Karakassis asks the Board members if they have any questions or comments, to which Mr. Carney and Mr. Klose reply they have reviewed the application, and have none. Chairperson Karakassis states she visited the property today at 5:00 pm, and further states the applicants' home is built on a rise, and the rest of the property slopes down to a marshy area. Chairperson Karakassis states she wanted to make a visual assessment regarding the proximity of the adjacent property.

Chris Klose asks Chairperson Karakassis what her impression of the next-door property was, to which she replies it was quite close. Michelle Castiglione states the proposed structure is close to the property line, but not the neighbor's house. Ms. Castiglione further states theirs and their neighbor's driveways are close, since their lot is a flag lot. Adam Castiglione states the neighbor's house is not oriented toward the proposed structure, and further notes no windows in the garage-cottage structure would face the neighbor's house.

Clerk Rubin states the ZBA Office received no comments from the public.

At 7:10 pm Chairperson Karakassis moves to close the public hearing. Chris Klose seconds, and all Board members vote in favor of closing the public hearing. Chairperson Karakassis states there will be one resolution for both variance requests, but the Board will review each request separately. Chairperson Karakassis states the Board will review the side yard setback variance request first.

The Board discusses the facts of the appeal, and determines:

1. The location of the septic tank and marshy areas considerably reduce the available locations for additional structures. The applicants' chosen location avoids these issues.
2. The front of the property faces the front yard, and is open space. Placement of the structure to the side of the rear driveway, preserves the open space.
3. There is no opposition from neighbors. The subject parcel is at the end of a long flag lot driveway. Visual impact on the neighborhood will be minimal.

Chairperson Karakassis asks the Board members if they have any further comments or questions. Chris Carney and Chris Klose state they have no further comments. The Board reviews the six criteria for the side yard setback area variance request:

The Board agrees unanimously that the setback request

1. will not produce an undesirable change to the neighborhood, or a detriment to nearby properties,
2. the needs of the applicant cannot be achieved by other than an area variance, since the applicants are looking to build a garage for equipment and vehicles, and have limited locations available,
3. the requested variance is substantial, since it represents a 71% reduction of the setback requirement,
4. will not affect the physical or environmental conditions in the neighborhood,
5. the hardship for which the variance is sought to rectify is self-created, and
6. the variance requested is the minimum variance to meet the needs of the applicants.

At 7:17 pm Chris Klose moves the grant the requested side yard setback variance. Chris Carney seconds and all Board members vote in favor of granting the variance.

The Board reviews the six criteria for the 984 SF proposed cottage, to be located above the proposed 984 SF proposed garage:

1. All Board members agree the requested variance will not produce an undesirable change to the neighborhood, or a detriment to nearby properties.
2. Chairperson Karakassis finds the needs of the applicant *can* be achieved by other than an area variance, and further finds the permitted 650 SF for a cottage adequate, and finds the applicants have a sufficiently large home. Chris Klose finds the needs of the applicants can be achieved by other than an area variance. Chris Carney agrees the needs of the applicants can be achieved by other than an area variance, but also states the definition of need is what they tell the Board.
3. The Board agrees a 42% increase over the permitted square footage is substantial.
4. The Board agrees the requested variance will not affect the physical or environmental conditions in the neighborhood.
5. The Board agrees the hardship for which the variance is sought to rectify is self-created.
6. Chairperson Karakassis states the requested variance is not the minimum variance to meet the needs of the applicant. Chris Klose states he agrees with the Chairperson's position. Chris Carney states the requested variance is not the minimum variance to meet the needs of the applicant.

Chairperson Karakassis states assessing an applicant's needs is difficult, and further states the use of a structure to entertain guests sets a precedent to allow applicants to say whatever their needs are.

Victoria Polidoro states the Board needs to vote on a resolution to deny the requested variance.

At 7:25 pm the Board votes on a resolution to deny the requested variance. Chairperson Karakassis votes YES, Chris Klose votes YES, Chris Carney votes NO. Patrick Logan states the motion fails, since there is not a five-member Board, at the present time, and further states the Board must vote unanimously for the motion to pass. Patrick Logan further states the Board can rework a resolution to grant the variance, and vote on it, within a period of 62 days. Mr. Logan further notes the Board can postpone this vote to the next meeting to see if there will be a unanimous vote. Mr. Logan further states if 62 days pass, the Board will effectively have issued a denial. Victoria Polidoro states the Board has closed the public hearing, but it can have a discussion and vote at the next meeting, if it so chooses. Chairperson Karakassis confirms that the applicants will attend the next ZBA meeting.

### **Public Hearing**

ZBA 22-04 Gregory and Elizabeth Bathrick, application for two Area Variances, the first regards the placement of a garage, in front of a proposed dwelling, 35 feet from the front property line, on the subject parcel. Section 143-18 A (4) of the Town of Red Hook Zoning Law stipulates that an accessory structure project no closer than the principal structure, or meet the required front yard setback of 60 feet. The second variance regards the construction of a number of buildings on the subject parcel, resulting in a maximum building coverage of 11%, and a minimum open space of 72%. The Town of Red Hook Zoning Code, Section 143-12, District Schedule of Area and Bulk Regulations, limits the maximum building coverage to 7%, and requires a minimum of open space of 80%. The subject parcel is located at 81 Country Club Drive, in the Town of Red Hook, in the RD3 Zoning District.

Chairperson Karakassis confirms with the applicant, the requested variances for lot coverage, and front yard setback, and then reads the agenda item. Chris Klose asks the applicant if what the Board has received is the current set of drawings, to which the applicant's architect, Christie Billeci, replies it is. Ms. Billeci states the DEC Wetlands Permit has been granted for the pool, poolhouse, and patio. Ms. Billeci further states the garage has been re-located further away from the neighbor, and 35' from the lot line, but in the front yard.

Ms. Billeci states the tree will be protected during the building process, and displays a three-dimensional model, a mock-up, and elevations on the screen, and also display photographs of neighborhood garages, in front yards, on Country Club Drive, houses closer to the pond, and garages closer to the street. Ms. Billeci also displays photographs of neighborhood parcels which have a higher-than-permitted lot coverage, and states the pond represents a large open space, surrounded by small lots, similar to planned cluster housing, and notes the neighborhood's small lots of .3 to .6 acres.

At 7:44 pm Chairperson Karakassis asks for a motion to open the public hearing. Chris Klose so moves, Chris Carney seconds, and all Board members vote in favor of opening the public hearing. There are no comments from the public. At 7:45 pm

Chairperson Karakassis asks for a motion to close the public hearing. Chris Klose so moves, Chairperson Karakassis seconds, and all Board members vote in favor of closing the public hearing. Chairperson Karakassis asks the Board members if they have any further comments or questions, to which Chris Klose and Chris Carney reply they do not. ZEO Bob Fennell confirms the applicants are seeking two variances, and not three.

Patrick Logan states the Board can draft one document with both variances. Chairperson Karakassi, Chris Klose, and Chris Carney agree to a single document. Patrick Logan states both variances must consider all of the criteria. Chairperson Karakassis asks Mr. Fennell if Country Club Drive is private, to which Mr. Fennell replies it is.

The Board discusses the facts of the appeal and determines:

1. The properties in the neighborhood are all off of a private road, thus the visual impact is minimal.
2. In a site visit it was noted there are a number of different architectural styles in the neighborhood, contributing to an overall, eclectic style. The site visit also revealed a number of properties with garages right up on the road, thus the applicants' proposal is in keeping with the neighborhood.,
3. The neighborhood was created some 50 years prior to zoning.

The Board reviews the six criteria front setback variance request and the maximum lot coverage variance:

1. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the requested variance will not produce an undesirable change to the neighborhood, or a detriment to nearby properties.
2. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the needs of the applicant cannot be achieved by other than an area variance, due to the need for a garage, the configuration of the lot, and the preservation of the tree.
3. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the requested variances are numerically substantial, but the impacts are not substantial.
4. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the requested variances will not affect the physical or environmental conditions in the neighborhood.
5. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the hardship for which the variance is sought to rectify is self-created.
6. For both the front setback variance request, and the maximum lot coverage request, all Board members agree the variance requested is the minimum variance to meet the needs of the applicants.

At 7:52 pm the Board votes unanimously to grant the requested variances for front yard setbacks and maximum lot coverage,

Chairperson Karakassis notes the Board has discussed increasing escrow collected from each applicant to \$750.00 from the \$500.00 collected, beginning in May of 2015. She states the Clerk has brought to her attention the fact that very often applicants must be asked for additional deposits to cover attorney fees, and the cost of certified mailing of the public hearing notices to applicants' neighbors, and publication of the public hearing notice, in the newspaper. Clerk Rubin notes when escrow was originally instated, the costs associated with the public hearing were substantially lower.

At 8:05 Chris Klose moves to increase the amount of escrow, collected from applicants, to \$750.00, from \$500.00. Chairperson Karakassis seconds, and all Board members vote in favor of increasing the amount of escrow, collected from applicants, to \$750.00 from \$500.00.

Patrick Logan notes Section 267A 13 B of New York State Town Law states if there is a default denial, the Board may entertain a motion to amend a failed resolution, up to 62 days after the original vote.

### **Adjournment**

At 8:09 pm Chris Klose moves to adjourn the meeting. Chris Carney seconds and all Board members vote in favor of adjourning the meeting.