

Town of Red Hook ZBA  
Draft Meeting Minutes  
November 10, 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. Chairperson Karakassis states the meeting is being held in accordance with State and Local requirements regarding remote meetings, and further notes the meeting is not being held in person at Town Hall.

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, 10-13-21**

At 7:03pm Chairperson Karakassis asks for a motion to approve the October 13, 2021 Minutes. Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor of approving the October 13, 2021 Minutes. There are no comments or questions regarding minutes. Chairperson Karakassis notes Board member Jim Hegstetter is absent, and remands the discussion and vote on the July 14, 2021 minutes to the next ZBA meeting, stating she had to recuse herself for part of the meeting, and could not vote on the draft minutes.

### **Planning Board Minutes**

Chairperson Karakassis states she has no comments on the Planning Board meeting. Chris Klose and Chris Carney also state they have no comments or questions.

### **Comments from the Chair**

Chairperson Karakassis states she has no comments at this time, and reads the first agenda item.

### **Public Hearing**

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 for a motion to open the public hearing. At 7:04 pm Chris Klose so moves, Chris Carney seconds, and all Board members present vote in favor of opening the public hearing. Chairperson Karakassis asks if there are any members of the public present who wish to comment. Clerk Rubin notes she received no requests, either via email, or via voicemail, to attend the meeting from the Zoom Room. Chairperson Karakassis notes the Board has received 15 letters from neighbors along Spring Lake Road, and further comments the subject parcel is at 398 Spring Lake Road. Chairperson Karakassis states all of the letter writers were in favor of the project. The property owner's representative, Phillip Zemke, states the applicant is seeking to create a safe passage between his garage and house, and further notes the accumulation of snow and ice, in that area, are a hazard. Mr. Zemke also notes the proposed addition is minor, as small as they could make it, and notes the subject parcel is a non-conforming lot in an Institutional Zone, which requires 10 acres, and has different coverage requirements than residential zones. Mr. Zemke also states the NYSDEC has approved a General Permit (GP0 -18), which allows for a permit in disturbed areas, which are more than 50' from the wetland.

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 application has been presented very clearly.

At 7:07 pm Chairperson Karakassis moves to close the public hearing, since the Board has no further questions or comments, and since there are no further comments from the public. Chris Klose so moves, Chris Carney seconds, and all Board members vote in favor of closing the public hearing. The Board members present find:

1. The proposed enclosed walkway, between the garage and the house, insofar as it is a minor addition to an existing building, is consistent with existing buildings in the neighborhood, such that there will be no undesirable change to the neighborhood, nor any detriment to nearby properties.
2. An area variance is required, for the project to go ahead, since the proposed enclosed walkway between the garage and the house adds to the building coverage on the subject parcel.
3. The lot coverage increase from 11% to 11.7% is not substantial.
4. The proposed enclosed walkway between the garage and the house will not affect physical or environmental conditions in the neighborhood, since the area is previously disturbed, and the project has been approved by the NYSDEC. The proposed enclosed walkway will be partially visible to passersby, more to pedestrians than to drivers.
5. The hardship for which the variance is sought to rectify is self-created, since the applicant purchased the parcel without a garage or enclosed walkway between garage and house, and now seeks to construct an enclosed walkway.
6. The dimensions of the proposed enclosed walkway are just enough for it to function as a corridor between garage and house.

Chris Klose states the proposed enclosed walkway fits into the neighborhood, and would have been included in the original application, had the applicant known about the ice problem. Patrick Logan states the Board can stipulate conditions to granting the requested variance, such as payment of all fees and escrow, and receipt of approvals from the Town of Red Hook Planning Board. At 7:18 pm Chris Klose moves to grant the requested variance, based on the above findings, and subject to said conditions. Chris Carney seconds, and all Board members present vote in favor of granting the variance.

## **Public Hearing**

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 asks for a motion to open the public hearing. At 7:20 pm Chris Klose moves to open the public hearing. Chris Carney seconds and all Board members present vote in favor of opening the public hearing. Chairperson Karakassis asks ZEO Bob Fennell to explain the violation on the subject parcel. Mr. Fennell states a former property owner at the time received Building Permit 4-84, of February 14, 1984, which allowed the property owner to construct three additional units, in a new building, on the property, and instead built six-unit apartment building, which Mr. Fennell states is the essence of the violation. Patrick Logan states in 1985 the property owner plead guilty to the violation, and was told to remedy the violation, which he did not do.

Richard Croughan states he provided the tax record information to the ZEO, and further states he finds the tax record contradicts what was previously said, since it shows six units in 1975, and an additional three units in 1985, which is as it is constructed now. Mr. Croughan states apparently the taxes have been paid as the buildings on the property currently sit. Mr. Croughan also states Mr. Fennell informed him the Building and Zoning Office does not go by the tax record. Mr. Croughan states his client was an innocent purchaser, who did everything he was supposed to do, in order to purchase the property. Mr. Croughan also states there would have been no way for his client to know of any kind of violation on the property, and further comments his client is trying to do the right thing, and remedy the situation, as it came up now, unbeknownst to him, when he was trying to refinance the property.

Chairperson Karakassis states this is her first Interpretation, and asks ZBA Attorney Patrick Logan for guidance, since there are no specific points for the Board to review. Mr. Logan states the Board members should recount their understanding of the facts. Mr. Logan states there was a building permit, which allowed three units to be built, and further

comments, on review of the record, at the time, this did not require a variance. Mr. Logan states it turns out that six units were built. Mr. Logan states the ZBA is relying on the Town's file, and the ZEO's letter of violation, which is for an excess of density, which the ZBA never permitted. Mr. Logan asks the Board whether or not it finds the ZEO was correct in his letter of violation, and states he can prepare a written resolution for the Board to vote on at the next meeting, based on what the Board finds. Clerk Rubin states for the record she has received no written or voicemail public comment regarding the present appeal.

At 7:35 pm Chairperson Karakassis moves to close the public hearing. Chris Carney seconds. Mr. Klose's connection to the meeting is interrupted. Patrick Logan states there is no longer a quorum, and the meeting must be adjourned, unless Mr. Klose can reconnect to the meeting. Chairperson Karakassis asks Mr. Croughan to state the number of units currently on the subject parcel, to which Mr. Croughan replies there are 12, and further notes all are occupied. Chairperson Karakassis wants to know what the rents are on these units and asks Jane Levi to unmute her microphone, but she is unable to do so. Clerk Rubin calls Mr. Klose, and establishes a phone connection for Mr. Klose to re-enter the meeting via his cell phone, and with Clerk Rubin's phone on speaker, so that all present may hear him. Mr. Logan states the meeting can proceed, as long as Mr. Klose can hear everyone, and everyone can hear him. At this time all Board members present vote in favor of closing the public hearing. Jane Levi informs the Board she has unmuted her microphone. Chairperson Karakassis asks the Board members present to consider whether the ZEO was correct in his violation letter, or in error. Chris Klose states he finds the ZEO was correct. Chris Carney states he finds Mr. Fennell was correct, since the building permit allowed three units and six were built. Chairperson Karakassis states she finds Mr. Fennell was correct in his Notice of Violation.

Mr. Croughan states the building in question was erected in 1986, and has existed for 36 years, during which time the Building Department had time to cite the violation, but never did. Chairperson Karakassis states she understands this, and also states this does not mean the violation does not exist. Chairperson Karakassis states Mr. Fennell went to the site of the subject parcel and noted an excess of density on the property, which, she states, constitutes a violation. Chairperson Karakassis further notes the violation would exist regardless of who the owner is at any given time. Mr. Croughan objects, and Patrick Logan states the passage of time alone does not cure a violation, and further notes the issue before the ZBA is simply whether or not there are units on the parcel which were never permitted under the Town of Red Hook Zoning Law, or other approvals. Mr. Logan states Mr. Croughan can submit additional information, and the Board can reopen the public hearing at a subsequent meeting. Chairperson Karakassis states the Board has discussed this at a past meeting as well, and further notes the applicant has another application for an area variance on the same parcel, seeking to remedy the violation. At 7:42 pm Chairperson Karakassis asks for a motion to affirm the ZEO's Notice of Violation. Chris Carney so moves, Chairperson Karakassis seconds, and all Board members present vote in favor of affirming the ZEO's Notice of Violation.

Clerk Rubin verifies for the record that all present heard Chris Close's vote, to which all Board members present state they heard Mr. Klose.

## Review

ZBA 21-07 Craig Nevill-Manning/Eversleigh, LLC, represented by Loreen Harvey of Kasselmann Solar, LLC, application for an Area Variance to install a ground-mounted, medium solar energy system in the front yard of the subject parcel. Section 143-37D(2)(f) of the Town of Red Hook Zoning Law prohibits ground-mounted, medium solar energy systems in the front yard. The subject parcel is located at 245 Woods Road, in the Town of Red Hook, in the LD, HL-O, and SC-O Zoning Districts.

Chairperson Karakassis reads the agenda item and asks Ms. Loreen Harvey of Kasselmann Solar, LLC to describe the proposed solar array, and why she is seeking a variance on behalf of her client. Ms. Harvey states there are a lot of overlay districts on the property, and further notes she and Mr. Nevill Manning are trying to avoid placing the proposed solar array within the water viewshed, and scenic corridor, and historic overlays. Ms. Harvey states the area they are proposing for the solar array is actually outside the viewshed area, but it is considered a front yard. Chairperson Karakassis asks Ms. Harvey if she can show the Board the area where these overlay districts intersect with the subject parcel, and Clerk Rubin enables screen sharing. Ms. Harvey shows a map of a water conservation area, and how it intersects with the subject parcel, and indicates the chosen area for the proposed solar array, stating it was chosen as the least intrusive area on the subject parcel for the proposed solar array, in terms of screening, trees and natural beauty.

Chairperson Karakassis asks Ms. Harvey to indicate the location of the residence on the subject parcel, which she does. Chairperson Karakassis asks Ms. Harvey to indicate the precise location of the proposed solar array, in relation to the residence, which she does. Chairperson Karakassis asks Ms. Harvey if the proposed solar array would be visible to any of the neighboring properties, to which Ms. Harvey replies it would not, as far as she can tell, and Ms. Harvey indicates an area of trees on the subject parcel, which would provide screening. Chairperson Karakassis asks Mr. Carney and Mr. Klose if they have any questions, to which Mr. Klose asks Ms. Harvey how much electricity is the proposed solar array expected to supply, to which Ms. Harvey responds 149.4kW. Mr. Klose notes the number of trees on the subject parcel, and asks how many acres it is, to which Ms. Harvey responds she believes it is 19 acres. Mr. Klose asks Ms. Harvey to confirm there is sufficient sunlight to produce electricity, as described, in the front yard, to which Ms. Harvey replies it is sufficient. Chairperson Karakassis asks the Board members present if they have any other questions, to which they reply they do not. ZEO Bob Fennell states the array from the north property line contains a number he cannot read, and asks Ms. Harvey to state what the setback from that property line is, to which Ms. Harvey replies it is 60'. Mr. Fennell confirms with Ms. Harvey the Columbia County line is at the north property line of the subject parcel.

Patrick Logan states as long as the Board members present are clear on what the applicant is requesting, they can go ahead and set a public hearing. Chairperson Karakassis states she has visited the site, and further notes nothing seems to be visible from where she was standing. Chairperson Karakassis also notes there seemed to be ample space for the proposed solar array. At 7:50 pm Chris Klose moves to set a public hearing for the December 08, 2021 ZBA Meeting. Chairperson Karakassis seconds, and all Board members present vote in favor of setting the public hearing. At 7:52 pm Chairperson Karakassis moves to classify the action as Type II under SEQR, Chris Carney seconds, and all Board members present vote in favor of classifying the action as Type II under SEQR. Patrick Logan states it does not require a 239-m referral. ZEO Bob Fennell states the question on the application stating “From...To” needs to be completed with “not allowing the proposed solar array to allowing it”. Ms. Harvey states she did not know how to fill that in, and further states she was told by Kathleen Flood, the Planning Board Clerk that Mr. Fennell would fill it in. Mr. Fennell states he will fill it in.

## **Review**

ZBA 21-08 Jane Levi, represented by Richard Croughan, application for an Area Variance to remedy 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 asks Mr. Croughan to state why the applicant is seeking an area variance, to which Mr. Croughan replies his client is seeking an area variance to remedy the violation and allow for the existing six units, instead of the three that were permitted under the building permit. Chairperson Karakassis asks if the applicant received a variance, the Town would still have to issue a Certificate of Occupancy, to which Mr. Fennell replies the applicant would probably have to obtain a Special Permit from the Planning Board, since multi-family dwellings require a Special Permit, and possibly Site Plan Approval. Mr. Fennell states he defers to the attorneys on whether or not the applicant will need these additional approvals. Chairperson Karakassis states she would like to hear from the attorneys as well, and states she has a concern regarding whether or not the six unit building from 1986 would need to comply with the current Building Code, or the Code from the time it was built. Town Attorney, Chris Chale, states she thinks this is not a matter for the ZBA to consider, and further states it is the Building Department’s responsibility to look at the NYS Building Code, and notes there are provisions that apply to this situation. Ms. Chale states if the applicant receives a variance, she will then be able to apply for a Special Permit, and further notes she cannot do so without the variance. Ms. Chale states the applicant can concurrently be working with the Building Department on the building issues. Ms. Chale asks Mr. Croughan if he

is already working with the Building Department on the building issues, to which Mr. Croughan replies he is, and further comments Charles Wesley Architectural Design has visited the building with Sam Harkins, the Assistant Building Inspector, to look over the building issues, such as smoke detectors, secondary emergency egress, and so on.

Chris Klose asks how many total units on the parcel there are, and wonders if taxes have been paid on all of them, to which Chris Chale replies, looking at old tax maps, and GIS maps, it appears there is a house dating from the 1940s, then there was a garage, which was converted into some units, and another three-unit L shaped building, and also the six unit building in the back, which was supposed to be three units. ZEO Bob Fennell and Chris Chale state the L shaped building and the six unit building in the back are not attached. Chris Klose asks Chris Chale to confirm that the building in the back was permitted to be built as a three-unit building, but was built as a six unit building, which Ms. Chale confirms.

Mr. Klose states he is concerned the Town of Red Hook is missing out on nearly 40 years of permit violations. Chris Chale states the ZBA can look at all of the factors related to the issue of the excess of density, and further states she does not think the ZBA can consider the years of permit violations in its deliberations. Chris Klose asks Ms. Chale who will handle the permit violations, to which Ms. Chale responds it will be the Building Department, and further notes the Planning Board will also be involved since the applicant will need to seek a Special Permit. Mr. Klose asks Mr. Croughan how many rental units the property owner is looking to realize, to which Mr. Croughan replies it is what is currently existing on the property, which Mr. Croughan further notes amounts to 11 or 12 units. Ms. Levi states it is 12 units. Mr. Klose asks Bob Fennell to confirm the zoning for the subject parcel is R1.5. Ms. Levi states the subject parcel is 5.5 acres. Ms. Chale states the excess of density is why the applicant is seeking a variance, in order to remedy the violation.

Chairperson Karakassis asks Mr. Fennell, and the attorneys present if they know which Building Code would apply, if the applicant were to receive a variance, to which Patrick Logan replies he has looked at this with Building Inspector Steve Cole, and further notes there is a part of the New York State Code which requires code compliance which corresponds with the time a building was built, and don't need to repeatedly come into compliance with future codes. Mr. Logan states the question is whether or not the building in question was properly approved at the time it was built. Mr. Logan states his interpretation of this is that the building in question would need to meet current code standards, and further comments he believes Mr. Cole has stated the building in question only needs to meet the code standards of when it was built. Mr. Fennell states New York State adopted the Uniform Building Code and Fire Prevention in January of 1984, and further notes prior to that time there was no uniform standard, noting that Towns adopted their own building codes. Chairperson Karakassis states it does not make sense that a building has been in violation for so many years, and to remedy it, the current owner only needs to meet what she assumes is a lesser standard than the current standard. Mr. Fennell states he thinks that is up to the New York State Codes Division. Mr. Klose states the applicant also seems to be avoiding financial penalties for all of the years of non-

compliance. Mr. Logan states he thinks the Code Section is New York State Residential Code 102.7, which covers existing structures. Mr. Logan states this is a question for Steve Cole.

At 8:05 pm Chairperson Karakassis moves to set a public hearing for December 8, 2021, Chris Klose seconds, and all Board members present vote in favor of setting a public hearing on December 8, 2021.

At 8:06 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 December 8th, 2021, at 7:00 pm. The submission deadline for this meeting is **noon** of Tuesday, November 30, 2021. 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.