

Town of Red Hook ZBA
Draft Meeting Minutes
February 09, 2022

Preliminaries

Roll Call

Chairperson Karakassis calls the meeting to order at 7:03pm. Present are Chairperson Karakassis, Chris Carney, and Chris Klose. Also Present are: ZBA Attorney Victoria Polidoro, and Town of Red Hook ZEO, Bob Fennell

At 7:03pm Chairperson Karakassis opens the meeting.

Approval of Draft Minutes: 1-12-2022

At 7:03 pm Chairperson Karakassis asks for a motion to adopt the January 12, 2022 Draft Minutes. Chris Klose so moves, Chris Carney seconds and all Board members present vote in favor of adopting the January 12, 2022 meeting minutes.

Planning Board Minutes

Chairperson Karakassis states she has reviewed the Planning Board minutes and there are no applicants to the ZBA from the Planning Board at this time.

Comments from the Chair

Chairperson Karakassis states Board member Jim Hegstetter has tendered his resignation from the ZBA, and notes the Board is now comprised of three members, the minimum for a quorum. Chairperson Karakassis further notes the Board will miss his institutional memory, and service to the ZBA, and states the importance of a variety of opinions among the Board members. Chairperson Karakassis states anyone interested in serving on the ZBA, should send a letter of intent to the Red Hook Town Board.

Chris Klose notifies the Board he will be traveling to Norway on March 14th and Clerk Rubin confirms the March ZBA meeting will take place on March 9, 2022.

Chairperson Karakassis reads the first agenda item, as follows.

Public Hearing

ZBA 22-01 Lewis Rose, application for an Area Variance to construct a 558 SF addition to a dwelling, resulting in a building coverage of 9.75% on the subject parcel. Section 143-12, The District Schedule of Area and Bulk Regulations, of the Town of Red Hook Zoning Law limits building coverage to 5% on the subject parcel. The subject parcel is located at 894 River Road, in the Town of Red Hook, in the RD 5 Zoning District.

At 7:06pm, 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. Clerk Rubin states she has received no emails, letters, or phone messages containing public comment for this public hearing. Chairperson Karakassis asks the Board members if they have any comments or questions, to which Chris Klose and Chris Carney reply they have none at this time.

Chairperson Karakassis states she was unable to make a site visit, due to the necessity of being away from her home, since some of her family members, with whom she shares a home, have contracted the CoVid 19 virus. Chairperson Karakassis states she reviewed the information regarding the subject property from Dutchess County Parcel Access, noting the stated dimension of the applicant's home is 2700 SF. Mr. Rose replies his home is closer to 1800 SF, with two bedrooms, and two bathrooms upstairs, and a living room, dining room, den, patio and a full bath downstairs. Chairperson Karakassis states Parcel Access lists four bedrooms and three bathrooms, to which Mr. Rose replies his survey does not say this. Chairperson Karakassis asks Mr. Rose to confirm there is a full bathroom on the first floor, which Mr. Rose confirms. Chairperson Karakassis asks the applicant why the existing full bathroom does not suffice for the addition of a bedroom on the first floor, to which Mr. Rose replies since receiving a cancer diagnosis, his plan is to construct a larger bathroom in the main bedroom on the first floor. Chairperson Karakassis asks Mr. Rose if he has anything to add to the discussion, to which Mr. Rose replies the proposed bedroom is not a large room, it will not require the removal of any trees, it is not close to the perimeter of his property, and he further states his neighbors will not notice it.

Chairperson Karakassis asks Mr. Rose to confirm his current lot coverage is 8.5%. ZEO Bob Fennell states he has not calculated the existing coverage on the parcel, and Chairperson Karakassis states she will take Mr. Rose at his word.

At 7:12 Chairperson Karakassis asks for a motion to close the public hearing. Chris Klose so moves, Chris Carney seconds, and all Board members vote in favor of closing the public hearing.

Chairperson Karakassis asks the Board to state the facts of the appeal, and the Board determines:

- The proposed project would increase the coverage to 9.75%, but the applicant asserts the existing coverage is already 8.5%, resulting in an increase of 1.25%.
- If the Parcel was not in the RD5 District, 10% coverage would be permitted
- The proposed addition will occupy space currently improved with an impervious slate patio.

Chairperson Karakassis and the Board members determine the six factors for deciding an area variance as follows:

1. The variance requested will not produce an undesirable change to the character of the neighborhood, or a detriment to nearby properties, insofar as the proposed addition is small, and located at the rear of the structure.
2. The needs of the applicant cannot be achieved by other than an area variance.
3. The requested variance is numerically substantial, but in terms of its impact, it is not substantial as the addition will be located on an existing, impervious patio.
4. The requested variance 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
6. The variance being granted is the minimum variance to meet the needs of the applicant.

At 7:19 pm Chris Klose moves to grant the requested variance. Chris Carney seconds, and all Board members vote in favor of granting the requested variance, contingent on the applicant paying all fees and escrow, and contingent on any required Planning Board approvals.

Review – Continued Discussion from 1-1-2022

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 agenda item, and states she was unable to make a site visit for the reasons she stated above, and further states she has two questions for the applicant. Chairperson Karakassis asks the applicant to confirm the information she found on Dutchess County Parcel Access, regarding the subject property, that the applicant's house is 2860 SF, with 2.5 baths, and 4 bedrooms, and that there is currently a 624 SF garage on the property. Victoria Polidoro asks the applicant if he is proposing to construct a second garage, or replace the existing garage, to which Mr. Castiglione replies his proposal would maintain the existing garage, and add a second garage, with a cottage above it. Chairperson Karakassis asks ZEO Bob Fennell to confirm that a 650 SF cottage is permitted by the Zoning Code, and further asks Mr. Fennell if the setback requirement is for one structure or two. Mr. Fennell replies a 650 SF cottage is permitted, and further notes the applicant has requested a variance for 924 SF.

Chairperson Karakassis notes the proposal involves a garage plus an accessory structure, and further notes it is two separate uses in one structure, a garage and a cottage, plus the existing garage. Mr. Castiglione states he chose the location of the proposed cottage and garage as the only realistic location for an accessory structure on the parcel. Mr. Castiglione states the other areas on his parcel are either too wet, too far

away, block the front view from his home, or would run into the septic field. Victoria Polidoro states she will look at the Code. Bob Fennell states the Code allows for a cottage with a garage below it. Chairperson Karakassis states the Code definition of an "Accessory Structure" is unhelpful, and further notes a cottage and a garage are two accessory structures. Chairperson Karakassis asks what the main use of the proposed garage and cottage will be. Bob Fennell states the Code does not allow for apartments over garages after January 1, 1993. Chairperson Karakassis asks the applicant to state the number of existing buildings on his property, to which Mr. Castiglione replies a current house of about 2900 SF and an existing garage. Mr. Castiglione states he is proposing a separate garage with a cottage on top.

Chairperson Karakassis asks what the distinction between an apartment and a cottage would be. Victoria Polidoro states ZEO Bob Fennell has determined it is a cottage. Mr. Fennell states it is an accessory dwelling unit. Victoria Polidoro asks the applicant if the current garage is attached to the house, to which Mr. Castiglione replies it is, and indicates the existing house and garage on the image of the parcel map. Victoria Polidoro asks Mr. Fennell if the applicant can put up an accessory structure in the front yard, to which Mr. Fennell replies he can not. Chairperson Karakassis asks how the Board is to distinguish an apartment from a cottage, to which Ms. Polidoro replies if there are conflicting terms or vagueness in the Code, the Board must find in favor of the applicant.

Chairperson Karakassis states the narrative the applicant has submitted to the Board states the use of the cottage is for his mother-in-law to have a place to stay for extended visits, and for his college friends and their families. Mr. Castiglione states even though he has a 2900 SF house with four bedrooms, he has no space for a guest. Mr. Castiglione states his main guest will be his mother-in-law, whether she stays for an extended period, or periodically visits. Mr. Castiglione further states when his friends with children visit, they have no place for them. Chairperson Karakassis notes the applicant is looking for space for his guests, and asks him if the primary driver of the proposed structure is the cottage or the garage. Mr. Castiglione states he wants one building to solve all of his issues, and further states his current garage struggles to fit two cars, and the outdoor yard equipment and kids outdoor toys end up staying outside, if both cars are in the existing garage. Mr. Castiglione states he wishes to combine the need for outdoor storage space and guest space.

Chris Klose asks Mr. Castiglione if he has considered converting the existing garage in to a guest suite, and building a new garage. Bob Fennell states this would be permitted, and Chairperson Karakassis states the applicant could have a larger garage. Mr. Castiglione replies he and his wife did not hash all of that out. Chairperson Karakassis states he will want to have his mother-in-law on the first floor. Chris Klose states it may save the applicant some money. Chairperson Karakassis states the applicant can apply for what he wants, and notes Mr. Castiglione does not have to follow the Board's advice. Mr. Castiglione states he wishes to go ahead and schedule a public hearing for the March ZBA meeting, for what he has already requested. At 7:42 pm Chairperson Karakassis asks for a motion to schedule a public hearing for the March 9, 2022 ZBA

meeting. Chris Klose so moves, Chris Carney seconds and all Board members vote in favor of scheduling a public hearing on March 9, 2022.

Chairperson Karakassis reads the next agenda item.

Public Hearing

ZBA 22-03 Derrick Mead, application for an Area Variance to convert an existing garage to a cottage, on a two-acre parcel. Section 143-68F of the Town of Red Hook Zoning Law requires that the cottage be situated on a lot of no less than three acres. The subject parcel is located at 267 Hapeman Hill Road, in the Town of Red Hook, in the RD3 Zoning District.

At 7:43 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. Clerk Rubin states for the record the ZBA Office has received no public comments, written or oral, regarding this appeal. Chairperson Karakassis asks the applicant if he has any additional comments, to which Mr. Mead replies he does not. Chairperson Karakassis states she was unable to make a site visit, and notes Dutchess County Parcel Access lists the property as having three bedrooms and one and a half baths. Mr. Mead states there are technically two bedrooms and one finished, walkout basement room. Chairperson Karakassis asks the applicant to state the size of the existing garage, to which Mr. Mead replies it is 1200 SF. Mr. Mead further states half of the garage, 600 SF will be allocated for the proposed apartment. At 7:45 pm Chairperson Karakassis moves to close the public hearing. Chris Klose seconds and all Board members vote in favor of closing the public hearing.

The Board determines the facts of the appeal as follows:

- The cottage will be making use of an existing garage and will not extend the footprint of any structure on the property.
- The garage/cottage is not visible to any neighboring dwellings.

Chairperson Karakassis and the Board members determine the six factors for deciding an area variance as follows:

1. The variance requested will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties. The garage structure exists and will not be enlarged or substantially altered.
2. The needs of the applicant cannot be achieved by other than an area variance.
3. The requested variance is substantial numerically but its impact is not substantial as it is making use of an existing structure.
4. The requested variance 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.

6. The variance being granted is the minimum variance to meet the needs of the applicant.

At 7:50 pm Chris Klose moves to grant the requested variance. Chris Carney seconds, and all Board members vote in favor of granting the variance, conditional on payment of all fees and escrow, and contingent on any required Planning Board approvals.

Review

ZBA 22-04 Gregory and Elizabeth Bathrick, application for two Area Variances to construct a garage, 15 feet from the side property line, and to place the garage in front of a proposed dwelling, 49 feet from the front property line, on the subject parcel. Section 143-18 A (2) of the Town of Red Hook Zoning Law requires that an accessory structure shall be set back 20 feet from the side property line, and 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 subject parcel is located at 81 Country Club Drive, in the Town of Red Hook, in the RD3 Zoning District.

Chairperson Karakassis reads the agenda item, noting the proposed garage is 15' from the side lot line, and in front of the proposed home, and asks the applicant to present his project. Mr. Bathrick states his architect, Christie Billeci will present the project. Ms. Billeci shows photographs and plans for the subject parcel, which she states is .6 acres, in a neighborhood of houses around Shooks Pond. Ms. Billeci notes there is an established maple tree the owners wish to conserve, and further notes the location of the garage, toward the front of the property will facilitate this. Ms. Billeci notes the neighborhood has a number of houses with detached garages, and accessory structures in the front yard. Ms. Billeci also notes the applicants will need a third variance for building coverage, not stated in the original application.

Chairperson Karakassis asks Ms. Billeci to indicate the location of the well on the parcel, which she does. Victoria Polidoro asks Mr. Fennell if the pool house and pool are included in the lot coverage calculation, to which Mr. Fennell replies the pool and patio are not included in the lot coverage. Chairperson Karakassis asks Ms. Billeci why the garage protrudes to the left, in the drawings, to which Ms. Billeci replies it is a three-car garage, with two cars in tandem, which she states is a more attractive solution than three garage doors side by side. Chairperson Karakassis asks Ms. Billeci if the garage can be rotated to be more perpendicular to the house, to which Ms. Billeci replies this would make it difficult to drive into, and the driveway would be too close to the front porch. Ms. Billeci further states tilting the garage makes going in and out easier. Chairperson Karakassis and Chris Klose state they do not see this difficulty. Chris Klose asks Ms. Billeci how wide the driveway is, to which she replies it is nine feet wide.

ZEO Bob Fennell states the Site Plan he reviewed on January 14 was very small, and further states now that he is seeing it in a larger format, he is wondering if the lot meets the size requirements for Section 143-13 a, Existing Lots of Record, to which Ms. Billeci

replies it does meet the requirement. Victoria Polidoro asks Ms. Billeci what steps will she take during construction to protect the maple tree, to which Ms. Billeci replies the work will be done outside the drip line of the tree to avoid compacting the soil. Ms. Billeci further states there are also wetlands requirements due to the presence of Shooks Pond. Victoria Polidoro asks Ms. Billeci if she has obtained permits for the pool and patio, to which Ms. Billeci replies the permits have been requested, but she has not yet heard back. Victoria Polidoro asks Ms. Billeci if she wants to wait until the permits have been granted. Bob Fennell asks if these are Federal Wetlands Permits or New York State Wetlands permits, to which Ms. Billeci replies they are New York State Wetlands permits. Gregory Bathrick states they need NYSDEC approval.

Ms. Billeci states the lot coverage is 11% for the proposed project, and further notes it might be possible to avoid the need for a side yard setback variance by tilting the garage, and moving it more forward, so the rear of the garage would be closer to the front lot line. Ms. Billeci further states the closer the garage moves to the house, the more the driveway impinges on the septic, and also moves closer to the front porch of the house. Ms. Billeci states the circular driveway is an aesthetic choice, and further notes she is trying to avoid paving the front yard. Bob Fennell asks Ms. Billeci if she has calculated the minimum open space, to which Ms. Billeci asks if this is separate from building coverage, and if it includes the driveway. Mr. Fennell affirms it is separate from building coverage, and includes the driveway, and further states, according to the District Schedule of Area and Bulk Regulations, a minimum of 80% open space is required in the RD3 Zoning District. Victoria Polidoro states it allows for some flexibility on side yards, but front and rear yards have to comply.

Chairperson Karakassis states for the public hearing, the front and side yard setbacks may have to be amended on the application, and, additionally, the application must include the proposed 11% lot coverage. At 8:29 pm Chairperson Karakassis asks for a motion to declare the variance request a Type II Action under SEQRA. Chris Klose so moves, Chairperson Karakassis seconds, and all Board members vote in favor of declaring the Action Type II under SEQRA.

Ms. Billeci asks Mr. Fennell to confirm dimensions of the patio, the pool, the buildings, the driveway, and the porches are all deducted from the open space on the subject parcel. Mr. Fennell states she must calculate everything that is not a green space, and further states Section 143-3 of the Zoning Code defines Green Space. Victoria Polidoro recommends the applicants look at recent variances in the neighborhood. Ms. Billeci states the Homeowners Association approved the project. Ms. Polidoro states Open Space is defined as land in its natural state – no buildings or structures. Mr. Fennell states driveways are considered development. Chairperson Karakassis states in considering other variance requests for the neighborhood, there is a lot of diverse development, and small lots with large houses. Chris Klose asks if the master bedroom will be on the first floor, to which Elizabeth Bathrick replies it will, since this will be their age-in-place home. Chairperson Karakassis states the applicants will need a fourth variance, and Ms. Billeci concurs stating the project has 74% open space and 80% is required in the Code.

At 8:36 pm Chris Klose moves to schedule a public hearing for March 9, 2022. Chris Carney seconds and all Board members vote in favor of scheduling the public hearing. Clerk Rubin confirms with Victoria Polidoro the applicants will need to amend the application, and resubmit it to Bob Fennell, initialing the changes, and they will not incur additional application fees.

At 8:38 pm Chris Klose moves to adjourn the meeting. Chris Carney seconds and all Board members vote in favor of adjournment.

The next ZBA meeting will be held remotely, in accordance with State and Local directives, on March 09, 2022. The submission deadline for this meeting is noon of March 1, 2022. Instructions for attending this meeting will be on the meeting agenda, published one week before the meeting.