

ESOPUS ZONING BOARD OF APPEALS

Date: May 16, 2023
Town Hall, 284 Broadway
Port Ewen, New York 12466

PRESENT: Karl Wick, Chairman
Gloria VanVliet
Chris Marta
Donn Avallone
Guy Brought (alternate o/b/o Katie Zahedi)

EXCUSED: Katie Zahedi
Jim Tomassetti

ALSO PRESENT: Liaison

Chairman Karl Wick called the meeting to order with the Pledge of Allegiance at 7:10 p.m.

Chairperson Wick motioned to approve the April 18, 2023 Minutes, seconded by Member Marta. Upon the affirmative vote of 5 members, the negative vote of 0 members and 1 member absent, the motion passed 5-0-1.

Chairman Wick acknowledged the service of Member Chris Marta who would be joining another Board and Guy Brought and Michael Pittner were appointed as ZBA members.

Chairperson Wick explained the ZBA process.

INFORMATIONAL:

05-01-23-01 Derick & Lorine Karabec
Appeal issuance of a special use permit for
property located at 38 Hudson Lane
SBL No. 64.3-5-2.320

04-28-23-01 Derick & Lorine Karabec
Appeal of CEO's acceptance of the Short EAF Part I
for property located at 38 Hudson Lane
SBL No. 64.3-5-2.320

Mr. Karabec stated that they were challenging the CEO's acceptance of the Short EAF Part I which was forwarded to the Planning Board. He read a list of omissions and answers made in the EAF that they felt had been answered incorrectly. Ms. Karabec added that two parking spots was required for each cabin which would allow for potentially 160 cars. The Karabecs stated

that the errors and omissions, if answered correctly, would have triggered the requirement to produce a Long EAF Part I. This appeal was supported by the neighbors.

The second Appeal made by the Karabecs was based upon the minimum requirements needed for a campground §123-13A of the Code. Chairman Wick asked if a special use permit had been issued to which the Appellants responded that it had not. Mr. Karabec’s contention was that the CEO should not have accepted the application to the Planning Board since it did not meet the minimum requirements under the Code for special use permits. Chairman Wick indicated that the Code Enforcement Officer does not have the power to issue a special use permit and that the Planning Board makes that determination. Chairman Wick stated that the ZBA could discuss if the CEO made the correct determination and whether the Application should be before the Planning Board. The Members of the ZBA could obtain documentation themselves to review and determine if the CEO had received sufficient documentation.

Chairman Wick entertained a Motion to close the information meeting. Upon Motion of Member Marta, seconded by Member Brought and all in favor, the information meeting was closed.

DECISIONAL:

03-09-23-01 James J. Rieker
 Corner of Mary’s Avenue & Center Street
 SBL No. 56.15-1-1.110
 R-12 Zoning
 Use Variance §123-44

Chairman Wick entertained a motion to approve the area variance pursuant to §122.44A.

The request was made to allow the continued use of a portion of the property to operate a contractor/storage yard. Said use had existed for years prior to zoning, Mr. Rieker agreed that no expansion of the operation would take place and support from neighbors had been obtained. The use was not in compliance with the Code and therefore, would need a variance was needed to be granted to bring into compliance. Upon Motion of Member Donn Avallone, seconded by Member Gloria VanVliet, and the affirmative vote of 4 members, the abstention of 1 member, the negative vote of 0 members, and 1 member being absent, the Motion was carried 4-1-1 by the following vote:

Member:	Vote	Supporting Opinion
Karl Wick, Chairman	Aye	
Donn Avallone	Aye	Compliance with the 20,450 sf area of the parcel as depicted not to be expanded
Gloria VanVliet	Aye	The use was pre-existing
Guy Brought for Katie Zahedi	Abstained	

James Tomassetti	Excused	
Kris Marta	Aye	

Other Business:

Definition of “character of the neighborhood.” The ZBA members had been requested to provide its definition of the character of the neighborhood and what criteria would apply to make that determination. Members had provided input (annexed hereto and made a part hereof). Member Marta noted that to create one definition that encompasses all factors that could be applied equitably was very difficult. The “essential” characteristics of the neighborhood were under the ZBA’s jurisdiction under the Code.

Member VanVliet noted that similar parcel sizes and ages of existing homes should be considered. Chairman Wick noted that the creation of a definition for the character neighborhood was non-site specific and was not defined in the Code. Member VanVliet confirmed that any definition would not be binding on any other Board. Member Avallone agreed to draft a definition and share with the ZBA members via email to develop.

Suraci Notice of Appeal -

Mr. Suraci reiterated his contentions contained in his Notice of Appeal which involved district boundaries and defining the character of the neighborhood. Chairman Wick noted that the Planning Board can make a referral to the ZBA if a variance was needed. In response to questions posed, Chairman Wick noted that he could not speak for the Planning Board. Mr. Suraci asked if something could be provided in writing from the ZBA relative to the three (3) items contained in his Appeal and confirm they were in violation of the Code if there was an Article 78. Chairman Wick noted that the last item was not in violation but could potentially create a hardship for adjoining landowners and could be dealt with at the Planning Board level. Discussion ensued regarding appeal timeframes. Chairman Wick noted that it was the duty of the Planning Board to approve or disapprove an application and that decision could be appealed. Mr. Suraci stated that if an Article 78 was commenced, he needed something in writing from the ZBA to take to an attorney. Mr. Suraci contended that the CEO determination was in violation of Zoning.

Member VanVliet read portion of May 12, 2023 letter from CEO Jaffee to the ZBA. Member Avallone stated that he wished to speak to the Town Attorney to get a clear interpretation of the Code and then would feel comfortable making a decision.

Although there was no public hearing, Chairman Wick entertained questions from the public.

Upon Motion of Member Van Vliet, seconded by Chairman Wick, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on May 30, 2023

Approved: