

## ESOPUS ZONING BOARD OF APPEALS

Date: June 20, 2023  
Town Hall, 284 Broadway  
Port Ewen, New York 12466

**PRESENT:** Karl Wick, Chairman  
Donn Avallone  
Guy Brought  
Katie Zahedi  
Jim Tomassetti  
Michael Pittner

**EXCUSED:** Gloria VanVliet

**ALSO PRESENT:** Town Board Liaison Kathy Quick and CEO Mark Jaffee

Chairman Karl Wick called the meeting to order with the Pledge of Allegiance at 7:01 p.m.

Chairman Wick explained the ZBA process and noted the fire exits.

**Chairperson Wick motioned to approve the May 16, 2023 Minutes**, seconded by Member Marta. Upon the affirmative vote of 6 members, the negative vote of 0 members and 1 member absent, the motion passed 6-0-1.

### **INFORMATIONAL:**

05-17-23-01 Mark and Sandra Simmons  
136 Hamilton/Legion Court  
Area Variance  
SBL No. 56.60-1-24

Ms. Simmons provided a map that she had obtained from the Town Assessor's office indicating that Lots 30 & 24 were combined by a Deed in 1991. CEO Jaffee stated that the Applicants had submitted an application for a subdivision to the Planning Board but if it was to be granted, the lots created would not meet the Code requirements relative to the lot size and an area variance would be necessary. Chairman Wick requested that the Deed prior to 1992, which described the boundaries of the larger lot, be provided. A public hearing was to be scheduled for July 18, 2023 ZBA meeting. Chairman Wick noted that under the Code, the lot was required to be 10800 square feet and the proposed lot would be 10450 square feet which was close to what was required.

**PUBLIC HEARING:** None

**DECISIONAL:**

Dennis Suraci addressed the ZBA stating that he was appealing the allowance of two lots to remain but to pull up R12 Zoning into the GC1 up toward 9W 200 feet. There was a 100' buffer required between the GC1 and R12 zones and moving the R12 would create a hardship on neighbors adjoining the project property. He stated that neighbors would experience a hardship as a result of the change in Zoning and requesting a note be made to adjoining properties indicating those neighbors did not create the hardship. Chairman Wick stated that no decision had been made by the Planning Board that could be appealed.

Mr. Surcaci stated that the zoning issues needed to be addressed by the ZBA as well as the Planning Board. Mr. Suraci stated that Zoning changes fit the applicant, the Applicant needs to meet the Zoning. Chairman Wick confirmed that there was no decision by the Planning Board and the Appeal wasn't ripe. Member Tomassetti asked if there was a reason to combine the properties. CEO Jaffee opined that there was a pending lot line adjustment contingent on the site plan approval but the zoning boundaries would not be changing. Chairman Wick noted that the project currently didn't violate any zoning and the application was pending before the Planning Board and when the Planning Board made a decision, if Mr. Suraci felt that the Code had been violated, an appeal could then be filed. Chairman Wick stated it was the duty of the Planning Board to approve, disapprove or modify a project and the ZBA did not have that authority...no decision had been made and there was nothing currently to appeal.

Member Tomassetti asked for clarification relative to the zoning and proposed buffering between the two zoning districts specifically with the 200' buffer and what the allowance actually was. Chairman Wick noted that the issues being discussed were not relative to the considerations currently before the ZBA. Mr. Suraci stated that the neighbors were concerned with the R12 setbacks. CEO Jaffee noted that any restrictions would be put into place by the Planning Board, not the ZBA. Chairman Wick noted that the Planning Board was responsible for considering all the issues raised by Mr. Suraci and a decision needed to be made first by the Planning Board prior to the ZBA considering any variances or appeals.

Mr. Suraci asked that the ZBA send a recommendation to the Planning Board and that the Boards should communicate with each other. Discussion ensued relative to the channels of communication within the Town and the various Boards. Member Tomassetti noted that Mr. Suraci's concerns were acknowledged, and if the project was approved, CEO Jaffee stated that a note to each adjoining property could be made within the program utilized by the Town in the event the project was approved. In the event neighboring properties needed to request a variance due to the setback, it would be noted that the hardship was not a self-created. No notes would be placed within the program unless the project was approved.

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

Derick & Lorine Karabec were present. Ms. Karabec stated that the Short EAF provided for the Yan application had not been completed correctly and the Code Enforcement Officer should not have forwarded the application to the Planning Board. The Planning Board engages the services of planning and engineering consultants in its reviews.

**Chairperson Wick entertained a Motion confirming that the CEO referral to the Planning Board was proper.** Upon Motion of Member Tomassetti, seconded by Chairman Wick and the affirmative vote of 5 members, the negative vote of 1 member, the abstention of 0 members and 1 member being absent, the Motion passed by the following vote:

<b>Member:</b>		<b>Vote</b>
Karl Wick, Chairman		Aye
Chris Marta		Aye
Gloria Van Vliet		Absent
Guy Brought		Nay
James Tomassetti		Aye
Donn Avallone		Aye
Katie Zahedi		Aye

05-01-23-01                      Derick & Lorine Karabec  
 Issuance of a special use permit

The ZBA determined that a Special Use Permit had not been issued and that the Appeal was not valid.

**Other Business:**

Definition of “character of the neighborhood.”

Member Tomassetti provided a copy of the draft LWRP Design Guidelines that had been prepared by the Waterfront Advisory Board.

Member Avallone and Chairman Wick had prepared a definition that had been circulated to the ZBA members for review. The following was presented as “Character of a Neighborhood.”

1. A neighborhood is a geographically localized community within a larger city, town, suburb or rural area, sometimes consisting of a single street and the buildings lining it. A neighborhood is an area where people live and interact with each other. Neighborhoods tend to have their own identity, or “feel” based on the following descriptors:

- Houses age and style
  - Type of streets and traffic patterns (including noise)
  - Subdivisions
  - Parcel sites
  - Topography and natural landscapes
  - Possible water features and courses
  - History
  - Planned development
2. Not all of these elements affect neighborhood character in all cases.
  3. In addition, municipal boundaries such as Zoning, School Districts, Fire, Water, Sewer, Light will affect the determination of a neighborhood. All of these factors contribute to a neighborhood's unique character or personality. Neighborhoods, unless designated by inclusion in a Special District, (e.g. Historic District), may change if Zoning allows for structures that are not there now to be built in established neighborhoods. Or if there are changes or requirements made to the Zoning Code, or if there are any of the special districts within which the neighborhood is found.

**Chairperson Wick entertained a Motion to accept the definition of character of the neighborhood.** Upon Motion of Chairman Wick, seconded by Member Tomassetti and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and 1 member being absent, the Motion passed by the following vote:

<b>Member:</b>	<b>Vote</b>
Karl Wick, Chairman	Aye
Chris Marta	Aye
Gloria Van Vliet	Absent
Guy Brought	Aye
James Tomassetti	Aye
Donn Avallone	Aye
Katie Zahedi	Aye

Upon Motion of Chairman Wick, seconded by Member Tomassetti, the meeting was adjourned at 8:33 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on July 5, 2023  
 Approved: August 15, 2023