

**ESOPUS ZONING BOARD OF APPEALS**

Date: June 18, 2024  
1 Town Hall Way  
Ulster Park, New York

**PRESENT:** Karl Wick, Chairman  
Gloria VanVliet  
Katie Zahedi  
Guy Brought  
Kathy Kiernan  
Mike Pittner (7:10 p.m.)  
Jim Tomassetti

**ALSO PRESENT:** Councilperson Kathy Quick  
Alternate Frank Skerritt

Chairman Karl Wick called the meeting to order with the Pledge of Allegiance to the Flag at 7:05 p.m. Roll call confirmed that a quorum was present.

**Chairperson Wick called for a motion to approve the May 21, 2024 Minutes.** Upon Motion of Member Brought, seconded by Member Zahedi and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 member and 1 member being absent, the Motion was carried by the following vote:

<b>Member:</b>	<b>Vote</b>
Karl Wick, Chairman	Aye
Guy Brought	Aye
Gloria Van Vliet	Aye
Katie Zahedi	Aye
James Tomassetti	Aye
Mike Pittner	Absent
Kathy Kiernan	Aye

Chairman Wick explained the ZBA review process.

**INFORMATIONAL**

CEO Request for Interpretation – Definition of structures – CEO had provided written request to be heard in conjunction with Kenneth Stenger, Esq.’s request.

Attorney Kenneth Stenger request for determination of “structure” - Attorney Stenger was representing the Karabecs and other landowners sharing a boundary with a property being reviewed for a site plan and special use permit. Attorney Stenger had made requests to the CEO for determinations which had not been answered and, as a result, was making application directly to the ZBA. A submission had been made on May 6, 2024 requesting a determination relative to structures and whether signs, septic systems, walking paths, drainage and culverts could be

considered “structures” pursuant to §123-61 of the Code. Attorney Stenger stated in the submittal that the Application for Interpretation also constituted an appeal of the refusal to act of the CEO under Code §123-43(A). Attorney Stenger requested that “5” of the May 6, 2024 submittal letter regarding the NYS Fire Code and access be disregarded.

On June 3, 2024 Attorney Stenger submitted a letter addressing a site change and stated he would be making an argument that placing the septic within the 100’ setback doesn’t serve the purpose of the statute and for the purpose of the statute, a septic system is a structure.

Although Mr. Stenger agreed with the CEO’s request for a determination as to what constitutes a structure, he wanted an answer to the specific question “what is a structure within the meaning of the statute?” Attorney Stenger read a portion of the content of his June 11, 2024 letter.

The Members agreed that all meeting materials needed to be submitted for consideration at the July 16, 2024 meeting by the July 2, 2024 submission deadline. Agent Derek Leung provided a June 17, 2024 Memorandum which was accepted to be reviewed for the July meeting.

Appeal of 4/1/2024 CEO Determination - Seasonal – Attorney Stenger had filed an appeal of the April 1, 2024 CEO Determination submitted on May 31, 2024. The ZBA had made a decision defining “seasonal” on March 19, 2024 which decision had not been appealed. CEO Jaffee had issued a letter interpreting the ZBA’s definition. Attorney Stenger would argue that the April 1, 2024 determination had not been requested and under the law, CEO’s are not authorized to issue determinations unless requested. Attorney Stenger was asking the ZBA to grant his application and throw out the CEO’s determination. Mr. Stenger read a portion of the May 6, 2024 letter the Applicant thereafter submitted to the Planning Board which referenced CEO’s determination. On May 13, 2024, the ZBA’s attorney wrote a letter to the Planning Board clearing the record stating that there had been no consultation with the ZBA (copy submitted to the ZBA for the record) and the process had not been followed. On May 14, 2024, the Applicant submitted a detailed report of the business operation based upon the April 1, 2024 CEO’s determination.

Appeal of CEO’s 3/4/24 Determination – Accessory Dwelling Units (ADU) on pre-existing non-conforming lots (CEO provided documentation for clarification on 6/3/24)

The Planning Board had made the request to the ZBA. Planning Board Vice-Chairman Darin DeKoskie and Member Chris Marta were present.

Planning Board Applicant Christina Hill and Ulster County Senior Planner Kai Farmer were allowed to address the ZBA and provided context of the pending Application before the Planning Board. The Application was before the Planning Board for Site Plan review since it did not meet the criteria for acreage. Chairperson Wick inquired if the ADU was pre-existing Code or was it a change to the use of the parcel. Planner Fransonr referenced Code Section 123-12(1) pertinent to ADUs.

Member Marta noted that the proposal involved a non-conforming lot of 11,991 sf where the Code required a minimum 12,500 sf lot size which resulted in a shortage of 509 sf. The ADU did not exist at the time the Code had been amended and the question to the ZBA was if the ADU

extending the non-conformity of the lot to more than 25% was permitted pursuant to Section 123-35, was an area or use variance required and if the interpretation was that an ADU Code applied to a non-conforming lot, would it then apply to even smaller non-conforming lots. The Planning Board was requesting a Code review for clarification relative to how much of a non-conformity would be allowed.

Chairman Wick noted that there would be a public hearing at the July meeting and it was possible that a decision could be made. The topic of the public hearing would be if a variance would be required.

#### Planning Board Request for Determination of Zoning District Lines pursuant to §123-8(f)

Planning Board Vice-Chairman Darin DeKoskie addressed the ZBA stating that there was currently a site plan/special use permit application pending before the Planning Board involving two parcels under the same ownership. Each parcel was located in a separate Zoning District – one in the R12 and one in the GC1 Zoning District. There was a proposed lot-line adjustment to merge the lots.

Attorney James Bacon stated that the Planning Board needed clarification of CEO Jaffee's determination which read "if the Planning Board agrees to the Applicant request to use the R12 Zoning regulation, it will require the entire review to use the R12 regulations and disregard the GC1 regulations." The Planning Board felt it was not its purview to determine the use and was the ZBA's purview. Attorney Bacon stated the way the determination was written it was up to the Applicant to decide which regulations to use and he had chosen to use the R12 regulations. Chairman Wick requested the CEO Determination be provided to the ZBA for the Public Hearing. The ZBA also felt it would be helpful to determine evidence of when the property was one parcel.

#### Planning Board request for determination – application of seasonal and ridgeline definition

Chairman Wick stated that the ZBA had created definitions of both and it was the responsibility of the Planning Board to apply. Vice-Chairman DeKoskie stated that he would argue that every site has a ridgeline on it based on the definition. PB Member stated that the Planning Board had made a Motion the previous evening to the Town Board to consider the creation of a ridgeline map for the Town. Vice-Chairman DeKoskie's thought was to consult with Planner Matt Rogers to review "ridgeline" and create an overlay map. Member Tomassetti stated that the ZBA's intent when creating the definition was to allow the Planning Board flexibility in applying the definition to an application review. PB Member Marta stated that if the Town would consider the request, the services of professionals could be solicited to create parameters that could be applied. Member Brought felt that it would be difficult to create parameters based upon the topography of the lands in Esopus. The Town Board's response to the request may be needed prior to starting a conversation.

A definition of "seasonal" had been provided by the ZBA. The Planning Board was requesting that the definition be specifically applied to an application before the Planning Board and request the ZBA to make a determination, within the definition, on how many months the proposed

project may be open during any given year and, whether the time period applies to the totality of the project and the entire use, or can the Applicant select groupings of cabins that are only operational for eight (8) contiguous months. Chairman Wick stated his personal opinion was that the definition applied to the project, not a particular piece or cabin and applied to the project as a whole. Member Zahedi noted that her recollection was that the eight (8) contiguous months meant that operation could be year round.

Chairman Wick stated that there would be separate public hearings on each item that had been on the Agenda.

### **PUBLIC HEARING**

There were no public hearings.

### **DECISIONAL**

No decisions were made

Upon Motion of Member Brought, seconded by Member VanVliet and all in favor, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on July 8, 2024

Approved: July 16, 2024