

ESOPUS ZONING BOARD OF APPEALS

Date: December 18, 2018
Town Hall, 284 Broadway
Port Ewen, New York 12466

PRESENT: Kathy Kiernan, Chairperson
Karl Wick
Vic Barranca
James Banks
Frank Skerritt
Glen Kubista

ALSO PRESENT: Kyle Barnett, Esq. of VanDewater & VanDewater, P.C. and Town Board Liaison, Kathy Quick.

Chairperson Kathy Kiernan called the meeting to order with the Pledge of Allegiance to the Flag at 7:04 p.m. Roll call confirmed that a quorum was present with acknowledgment that Member Joseph Guido had resigned and Chairperson Kiernan read the letter dated December 18, 2018 stating his resignation.

Chairperson Kiernan called for a Motion to approve the October 18, 2018 Minutes. Upon Motion of Member Kubista, seconded by Member Wick, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Aye

Chairperson Kiernan called for a Motion to approve the November 20, 2018 Minutes. Upon Motion of Member Wick, seconded by Member Skerritt, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye

Glen Kubista	Aye
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VOUCHERS:

Vouchers were distributed for review by the Board.

Chairperson Kiernan called for a Motion to approve the Vouchers for payment of services of ZBA Counsel Kyle Barnett, Esq. and Administrative Assistant. Upon Motion of Member Kubista, seconded by Member Barranca, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Aye

For the benefit of those present, Chairperson Kiernan explained the process for Zoning Board of Appeals application reviews, noting that there were three parts to this process - the Informational Meeting, the Public Hearing and the Decisional Meeting.

INFORMATIONAL

**12-18-18-01 208 Broadway – Owner Ryan Jabs by John Stinemire
208 Broadway, Port Ewen
SBL: 56.67-5-9
Area Variance – Side yard**

John Stinemire was present as agent for the owner of the property and provided details as to what was being proposed and why an area variance pursuant to Article V § 123-20 of the Town Code was being sought. Mr. Stinemire indicated that the present 2-story structure was to be demolished and replaced with a new 2 - story structure. A variance from the 10’ side yard setback was being sought which requested 6’ set back was less non-conforming then what presently existed on the site. The current set back on that side was 3’.

The Board indicated that a Public Hearing on the application was to be held on January 15, 2019.

PUBLIC HEARING:

**11-20-18-91 Daniel Roth
16 Florence Street, Ulster Park
SBL: 63.02-4-32.200
Area Variance – Shed & Pool**

Chairperson Kiernan called for a Motion to open the Public Hearing. Upon Motion of Member Wick, seconded by Member Kubista, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Aye

Property owner Daniel Roth was present and confirmed location of his property with Chairperson Kiernan who had driven past the property and observed a shed already existing on the property. Mr. Roth noted that the shed had been delivered earlier than expected and he had been in conversation with Code Enforcement Officer Morello. Mr. Roth provided photographs to the Board which depicted the locations of the proposed pool, shed and grading of yard. No screening of the pool was planned. Mr. Roth noted that he had spoken to neighbor to the south of his property who indicated that if they were not at the Public Hearing, then they had no issue with the proposal.

Member Wick questioned the proposed lot line adjustment on the 2017 map to which Mr. Roth responded that the revision had been finalized.

Chairperson Kiernan called for a Motion to grant a variance from Article V §123.21(c) (5) (a) of the Zoning Ordinance to allow the small shed and swimming pool in the front yard of the property. Upon Motion of Member Wick, seconded by Member Kubista, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Aye

Chairperson Kiernan called for a Motion to close the Public Hearing. Upon Motion of Member Wick, seconded by Member Barranca, and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Aye

Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Aye

DECISIONAL:

05-15-18-01 Jess Hicks
15 Broadway, Port Ewen
SBL: 56.044-1-1.1
Change in Non-Conforming Use (Section 123-30(B)(3))

Applicant Jess Hicks and his attorney Urs Broderick Furrer of Harriton & Furrer, LLP were present.

Member Wick provided a three-page document supporting his findings and submitted to the ZBA Secretary for the record. He then confirmed the task presently before the Board was to render a decision as to whether there was a grandfathered pre-existing use that had not been discontinued more than 5 years and also whether to approve the change in the use being proposed.

Chairperson Kiernan called for a Motion to deny the application for a continuation of a prior non-conforming use and to grant a current existing non-conforming use. Upon Motion of Member Wick, seconded by Member Barranca, and the affirmative vote of 4 members, the negative vote of 2 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Nay
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Nay

Member Wick noted his vote was supported by reasons stated in document submitted for the file.

Member Skerritt concurred with comments made by Member Wick and that the use had been discontinued more than 5 years prior.

Member Barranca read a statement that in sum stated that he felt the use was discontinued in 2010 when KOSCO ceased operations and vacated the property. He stated that as a result of the decision, Mr. Hicks would need to submit an application for a special use permit to the Planning Board.

Mr. Banks supported the motion indicating that the use had stopped when the KOSCO trucks ceased to operate from the property more than 5 years ago.

Chairperson Kiernan was opposed to the Motion stating that the use which was a particular purpose of the property wasn't discontinued until the tanks were decommissioned in 2013 adding that if the tanks had been modified so that they were no longer able to hold liquid petroleum the use could have been considered discontinued at that time, but the use was in effect until the tanks were removed.

Member Kubista reiterated the difficulty in coming to a decision with regard to the application. He believed that the use wasn't discontinued until the tanks were removed since the tanks were maintained up until that point.

Attorney Barnett had prepared a draft Findings of Fact and Decision and recommended the Board be polled to adopt the Findings of Fact & Decision which denied the application for a continuation and change of a non-conforming use.

Chairperson Kiernan called for a Motion to adopt the Findings of Fact and Decision.

Upon Motion of Member Wick, seconded by Member Barranca, and the affirmative vote of 4 members, the negative vote of 2 members, the abstention of 0 members and no members being absent, the Motion was carried by the following vote:

Member:	Vote
Kathy Kiernan, Chairperson	Nay
Karl Wick	Aye
Vic Barranca	Aye
James Banks	Aye
Frank Skerritt	Aye
Glen Kubista	Nay

Attorney Barnett noted that the Findings of Fact, Decision and the Notice of Action would be filed with the Esopus Town Clerk within five (5) business days and that he would be providing a clean copy to be signed and filed.

Chairperson Kiernan stated for the record that it was her opinion that an important and dedicated member of the Board had been lost with the resignation of Joe Guido. With that being said, Chairperson Kiernan resigned.

Upon Motion of Member Kubista, seconded by Member Barranca, and the affirmative vote of all members, the meeting was adjourned at 7:59 p.m.

Lisa K. Mance, Administrative Assistant
Respectfully Submitted: January 2, 2019
Minutes Approved: January 15, 2019