

**VILLAGE OF RED HOOK
ZONING BOARD OF APPEALS MEETING
February 23, 2023
7:00 PM**

Present: Chair Erik Cuthell; Member Maarten Reilingh and Member Sherry Ou-Yang

Absent: Member David Javscas and Member Steven Appenzeller

Chair Cuthell opened the February 23, 2023 Zoning Board of Appeals Meeting at 7:03pm.

Chair Cuthell announced members present and that there was a quorum for tonight's meeting.

Chair Cuthell made a motion to accept and approve the meeting minutes of the ZBA dated August 25, 2022. Motion seconded by Member Reilingh. All in favor. Motion approved.

#1. John Halle	35-39 Garden Street	Interpretation
Tax Parcel ID 6272-09-240689		

Chair Cuthell said there was one agenda item this evening which paperwork indicates it is for an interpretation but understands this might have changed for 35-39 Garden Street.

Chair Cuthell said this interpretation, he believes, is an application for an appeal.

Mr. Halle said no.

Secretary Hart advised an interpretation is that the applicant is appealing Mr. Kimble's decision.

Mr. Halle said he was unclear and felt it was just to interpret the statute.

Chair Cuthell said this Board will figure that out in order to decide this, and if it was strictly an interpretation it would be applicant had a question, but applicant has an issue in that he wants to do something and Mr. Kimble, in his opinion, feels there is a problem.

Mr. Halle said ok but unclear that he made that ruling and felt this Board were in charge of making the ruling of if it could or could not happen. Chair Cuthell said ultimately yes they will.

Mr. Halle said he did not understand infinitively that he rejected his application and that he was going over his head to this Board. Chair Cuthell said you are not going over his head but simply responding to a letter because he did not give you approval to do this. Mr. Halle asked to do what. Chair Cuthell said to do your renovation to the building. Mr. Halle said not formally but he never gave him any written document about that and he never made any official application. Chair Cuthell asked if he ever filed for a building permit.

Secretary Hart advised that Mr. Halle wanted to submit for a building permit and Mr. Kimble met with the contractor and after speaking with Mr. Halle a few times he felt there was an issue with the use and that at one point Mr. Kimble was told it would an apartment. Mr. Halle said we

should be clear about the facts and that at no point was an apartment ever discussed. Mr. Halle said it has been an apartment since the 1980's. Secretary Hart said that was the issue.

Chair Cuthell said understood but that does not fit current zoning and turns it into a 3 tenant property and an issue this Board will need to figure out.

Mr. Halle said yes but the facts need to be understood and it has been an apartment since the 1980's with a kitchen and bathroom and they want to basically put a tiny kitchen in the building and renovate the bathroom.

Chair Cuthell said understood but as a non-conforming accessory building that is a rental and Mr. Kimble cannot fund any Certificate of Occupancy for an apartment/rental unit in that building so it is non-conforming, and that is fine, leave it alone and it is what it is, but as soon as you touch it, it now becomes something that needs to conform and without an approval you will not get a building permit to do the work on the building. Chair Cuthell said even though it was like that when you purchased it, the issue is that now you want to do stuff to it so you need permits and the permit cannot be granted unless it fits zoning regulations, and if it doesn't, the process is to appeal those to see if you need a variance to do the work.

Mr. Halle asked if he'll need to come back. Chair Cuthell said yes because a decision will not be made tonight and if this process of interpreting of what you want to do and what the constraints are as accepted by the Village and the Trustees of this Zoning Code.

Chair Cuthell said if we can find a way to meld those two without an issue than it's a matter of just you filing a building permit, but if this Board interprets this and finds it doesn't conform and sets up a problem for us because you're parcel is one in particular, but one in many, so if this Board says yes you can do this, and winds up with 3 rental units on a single lot, we set precedence for everybody else who wants to do that and that is problematic and does not fit our Code.

Mr. Halle said yes and it is his understanding that he was arguing for an appropriate interpretation of Code based on what he understood to be a misinterpretation from Clark and specifically based on facts which he explained in his letter to this Board, that he believed that there was no bathroom or kitchen in the building prior and that he was installing something new and feels this was a factual misunderstanding.

Chair Cuthell said under normal circumstances it would seem reasonable that if you have something existing you should be able to renovate it, but it's the fact that what you are then codifying with a permit and CO is a small corner lot in the Village with 3 rentals and that is the bigger question.

Member Cuthell said he was meeting with Mr. Kimble on Monday to go over this but tonight is an opportunity to go over what you want, which is a \$170,000 renovation, which is substantial.

Chair Cuthell said there is talk about you wanting it as a private studio, but feels the two lots are separate and need to be looked at separately and advised that circumstances can change and

the 2 lots could get sold and your intention of what you intend to do with this structure, and really the question is what you want to do with this structure setting it up with a full bath and full kitchen which makes it an accessory building with a dwelling in it which and the house if already

a two family which would put 3 rentals on a single village lot which is an issue by zoning and precedence, which was flagged by Mr. Kimble.

Mr. Halle said he also considered a line-line adjustment. Chair Cuthell said if you put that building on the 41 Lot it then it is the accessory building for 41 and 41 is a single dwelling with an accessory building with an apartment.

Chair Cuthell said he wants to find a way to make the pieces fit and that option is a possibility but with expenses involved. Mr. Halle felt he was better off with the lot-line alteration. Mr. Halle said that was always his plan but hard to find a surveyor,

Mr. Halle asked if he gets surveyor and does the lot-line would he come back here. Chair Cuthell said you would not come back to this Board. Mr. Halle said that seems the easiest thing to do.

Chair Cuthell said he meets with Clark on Monday and will go over options.

Chair Cuthell spoke on the 41 lot and ways to not cause any red flags. Mr. Halle said he will do what he needs to do. Set-backs were discussed for 41 lot if lot-line option chosen.

Mr. Halle said he could call a surveyor tomorrow.

Member Reilingh said the other thing is the variance of the kitchen and the bathroom. Chair Cuthell said honestly once it becomes just a single-family house with an accessory apartment in it you can do whatever you want. Member Reilingh said instead of the lot-line. Mr. Halle said he has been meaning to do the lot-line.

Chair Cuthell said he will talk to Clark on Monday and make sure that is not an issue.

Member Reilingh asked what is an "interpretation". Chair Cuthell said after talking to Lara and Mr. Kimble that it is an application for an appeal. Member Reilingh asked for matter of theoretical. Secretary Hart advised she was working on a new application and information sheet to better the understanding of an interpretation application.

Member Reilingh said it wouldn't be an area variance, but a use variance which is almost never done. Chair Cuthell said it would be a use variance for 3 rentals. Member Reilingh said so depending on how we answer the question he might be asking for area or use variance. Chair Cuthell said he does not follow and at this point in Clark's mind he has been told he cannot do the renovation on this building because it represents a 3rd rental on this lot which is a non-conforming use and that even know it's been a rental for a long time, once you touch to do a renovation you need a Certificate of Occupancy.

Chair Cuthell made a motion to table the application for 35-39 Garden Street listed under Tax Parcel #6272-09-240689 to the March 23, 2023 ZBA meeting at 7:00pm. Motion seconded by Member Ou-Yang. All in favor. Motion approved.

Chair Cuthell made a motion to adjourn the February 23, 2022 ZBA Meeting at 7:28pm. Motion seconded by Member Ou-Yang. All in favor. Meeting adjourned.

Lara Hart,
Secretary, Village of Red Hook ZBA

